FOR MYSORE STATE

Revenue (1950) Department.

M. SERIES.

P.66.4
Pan

G.O. NO. 594

Dated 3/3/50

[Despatch Abstract.]

Prohibition — Sandur — Extension of Prohibition from 1-4-50 and payment of compensation to the distillery contractor — Orders issued

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Ms	3093	Dept	8 8 50				
Memo	10080	5/50 : i Dept 9 26/x/50					

Extract from the report of the Madras Prohibition Enquiry Committe.

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Para 16: Sandur is a small State with 167 sq. miles and a population of about 16,000. The distillery was installed there, after Prohibition was introduced in Bellary district. It was surprising to find that the State itself was making retail sales of arrack in shops almost on the borders through their own employees. Many people from the border villages of Bellary and Hospet taluks were securing liquor from this State and much smuggling seems to be going on. It is desirable and necessary that an agreement is entered into to introduce Prohibition in their State or in the alternative to strictly limit the manufacture of liquor to the pre-prohibition level and to prevent surreptitious inflow into our area

BOARD OF REVENUE (EXCISE) DEPARTMENT.

Subject:-Sandur State-merger with the Madras Province-Excise or Prohibition Administration-Instructions solicited.

R.R.No.25771/Abk. R45283D 9.8.48

Station-Triplicane, Madras 5. Dated 6-8-48.

From

Md. Munzoor Husain, Khan Sahib Bahadur, B.A.,(Hons.),
Assistant Secretary, Board of Revenue (Excise).

V.N.Kudva, Esq.,C.I.E.,I.C.S.,
Member, Board of Revenue and Commissioner of Land Revenue,
Excise and Prohibition.

REFERENCE:-

The Board encloses a copy of a letter received from the District Prohibition Officer, Bellary, and requests the Government to inform it what administrative arrangements in respect of Excise or Prohibition are in force in the State at present and whether the Provincial Excise Department should control them.

2. The Board invites the attention of the Government, in connection to their Memo. No.20478 D/48-3 Rev. dated 13-6-48, in which the Government have permitted the ex-distiller, Banganapalle to export the balance of arrack in Banganapalle to Sandur State. The liquor has not yet been removed as the ex-distiller has not executed the necessary bond. He has made all necessary arrangements for the transport. If Sandur State has merged with the Indian Union and if Prohibition is to be enforced there, then the orders permitting the ex-distiller at Banganapalle to take the liquor to Sandur, may have to be revised in the light of the latest developments. The Board requests urgent orders in the matter.

Munzoor Husain 6.8.48

ASSISTANT SECRETARY.

To

The Assistant Secretary to Government,
Revenue Department, Fort St. George,
MADRAS. (with one enclosure.)

WNR/6-8-48.

Copy of the letter from the District Prohibition Officer, Bellary, No.R.C.1436/48-A. dated 31-7-48.

Sub:-Disposal of balance of arrack from Banganapalli State-transfer of stock to Sandur.

Ref:-R.C.1534/48 dated 27-7-48 of the District Prohibition Officer, Kurnool.

I invite a reference to the letter of the District Prohibition Officer, Kurnool, cited above. A consignment of 34 casks of arrack is reported to be pending despatched to the Sandur State from the Banganapalli Distillery of Kurnool District for want of execution of the necessary bond as required by the S.O.93(1) of the Distillery Manual by the Distillery. In view of the recent merger of the Sandur State, I believe that Prohibition may be introduced from into the State so that it will fall in line with the adjoining dry areas of Bellary District. It is for consideration whether such a large consignment of 34 casks of arrack is now required for consumption of the few arrack shops that lie in Sandur State. The average consumption of these shops is said to be 500 gallons of arrack per month. If the surplus arrack of 34 casks of Banganapalli Distillery as referred to by the District Prohibition Officer, Kurnool, in his letter quoted above were to be transported to Sandur State, there would be liquor in excess of the demand for the shops in Sandur. The Distillery at Sandur has to be closed till such period is i.e., till the entire quantity of arrack transported from Banganapalli is issued out for consumption. It may prove a hardship to the distiller if the surplus liquor is ordered to be destroyed.

I solicit early instructions in the matter as to the future disposal of the surplus that is to be despatched to Sandur State from Banganapalli ; and also on the future working of the distillery and liquor shops in Sandur State.

/ True Copy/

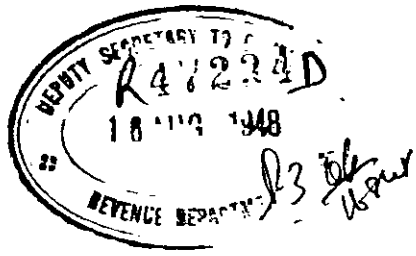
6-8-48

WNR/6-8-48

Sandur.
Dated: 11th August'48.

To

The District Collector,
Bellary.



Sir,

Whatever ones' feelings are towards the merging of the Sandur state, one has to but to reconcile oneself with the exigencies of the situation and it is with this idea, I now place before you a most urgent and important necessity for your immediate attention and early orders.

After the taking over of the administration of Sandur by you, as Collector, Sandur has become a part of Bellary district and as such all the laws and rules existing in the district apply to this place. Bellary is a 'PROHIBITED AREA' as we know, but unfortunately Sandur has not had the benefits of prohibition inspite of the great demand by the public. It is well-known how embarrasing and troublesome it is, if there is such a wet place in the midst of a dry area.

As ex-President of the State Congress, I assure you that all the people are for the introduction of prohibition and are clamouring for the same.

I therefore request you to apply prohibition rules to Sandur also; and we very much desire to have the declaration on the 15th August 'Independence Day'

Early orders are requested.

Yours faithfully,
K. B. Shastri

Copy to the Special Officer,
Sandur (Govt. of India)
" to the Minister for Prohibition,
Govt. of Madras.

To D.S.

Rev. (5)

Please see the xfer. orderly. It is submitted that ~~Public Deptt. should be requested to expedite~~ the file relating to the introduction of Prohibition in Sandur has been sent up to the Public Deptt. for remarks, as no official intimation has been received in this Deptt. about Sandur's ~~not~~ merger with the Madras Province, ~~and~~ return may be awaited. ~~before the account~~ xfer may be added to that file) ~~on receipt~~.

since recd. back

@ 23/8/48

60 25/8/48

BOARD OF REVENUE (EXCISE) DEPARTMENT.

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Subject:-SANDUR STATE - Annexed to Madras Province - Excise or Prohibition administration - instruction.

Read:- Board's reference C.R.25771 Abk dated 6-8-48,

C.R.25771 Abk/48. Dated 22-10-48.

Station: Triplicane, Madras,5.

From

Sri P.Rajagopal Achari,
Assistant Secretary, Board of Revenue (Excise).

V.N. Kudva Esq., C.I.E., I.C.S.
Member, Board of revenue, and Commissioner of Land Revenue, Excise and Prohibition.

REFERENCE:

The Board invites the attention of the Government to para 1 of its reference cited above and requests orders in the matter. The Board also submits herewith a copy of letter dated 12-10-48 addressed to the special officer-in-charge of Sandur Administrations, by Sri P.L.Narayanaswamy.

ASSISTANT SECRETARY.

To
The Secretary to Government,
Revenue Department, Madras. (with 1 enclosure).

Copy of the letter dated 12th October 1948 addressed to the Special Officer In charge of Sandur State, Administration, Sandur, by Sri M.L.Narayana swamy.

Sub:-ARRACK DISTILLERY - Closure of State Government arrack shops by the present administration - Distillery manufacture and supplies stand-still - compensation claimed - payment requested.

I am given to understand by my agent at Sandur that you have taken stock of arrack in my distillery and sealed the vessels containing arrack with your own seal. Although it is now nearly two and half months, I have not been informed definitely about the further functioning of my distillery in spite of my repeated reminders.

Since I am kept in dark and in great suspense without any orders, I feel constrained to put forth my claim for the payment of compensation in virtue of the conditions 4,5,6 and 12 of the Memorandum of agreement executed by myself and the Sandur State Government on 19-10-1946

Inviting a kind reference to the said clauses of the agreement, I now claim Rs.96,500/- rupees ninty six and five hundred as compensation under clause 4 of the agreement wherein the state agrees to purchase from the distillery supplier not less than 500 gallons of arrack of 35 U.P. per month at Rs.5/- per bulk gallon. The amount claimed for is for the remaining peripd of 3 years, 2 months and 18 days since the State Government have not drawn supplies from 1-8-48.

In support of this, I can even invite your kind attention to clause 6 of the said agreement wherein it is agreed that "if for any reason the state does not purchase the full quantity of 500 gallons of arrack of 35 U.P. in any month during the period of the contract, the state shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the state".

P.T.O.

As the state has failed to purchase the agreed full quantity of 500 gallons from 1-8-48 the State has to inevitably compensate me for the full quantity of 500 gallons per month for the rest of the contract period of 3 years 2 months and 18 days.

Hence my claim for Rs.96,500/- on this for 3 years 2 months and 1° days at Rs.5/- per gallon for 500 gallons of arrack per month.

I claim also Rs.2260/- on the stock of452 gls of arrack as verified and sealed by you on 8-10-48 at Rs.5/- per gallon being the cost price.

I further claim the establishment charges for 2½ months from August 1948 Rs.462-8-0 and also Rs.11,344-4-3 being cost of building and machinary plant.

Thus my claim for Rs. 1,10,566-12-3 or Rs.1,10,567/- only and I request that early orders of payment may kindly be issued to me.

/True Copy/

CT/26/2

BOARD OF REVENUE (EXCISE) DEPARTMENT.

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Subject:-SANDUR STATE-Merger with the Madras Province-Ganja Stock-Disposal-instructions-Requested.

Ref:- Board's references C.R.No.25771/Abk/48 dated 6-8-48 and 22-10-48. Pp 5-7 ante
Letter Rc.No. 49/48-4 C.C. dated 19-11-1948 from the Collector of Bellary.

C.R.No.25771/Abk/48-X.A.1.

Station-Triplicane, Madras 5. Dated 27-11-48.

From

Sri.P. Rajagopalachari,
Assistant Secretary, Board of Revenue (Excise).
V.N.Kudva, Esq.,C.I.E.,I.C.S.,
Member, Board of Revenue and Commissioner of Land Revenue,
Excise and Prohibition.

REFERENCE :-

In continuation of the Board's references cited, a copy of the letter cited is submitted to the Government. The Board requests that the Government may be pleased to pass early orders in the matter.

ASSISTANT SECRETARY.

To

The Secretary to Government,
Revenue Department, Fort St. George,
MADRAS. (with an enclosure).

To WNR/29-11-48.

Copy of the letter from the Collector of Bellary, R.C.No.49/48-4 C.C. dated 19-11-1948.

Sub:-Sandur State-Ganja stock-Disposal-instructions-Requested.

The Administration of the Sandur State was taken over by the Government of Madras with effect from 29-7-48 and from that date onwards, I have issued orders to suspend the sale of arrack and ganja throughout the state until further orders. The Government have been addressed separately for ordering the introduction of Prohibition in the state and their orders are awaited.

There is a quantity of 54 seers and 18 tolas of Ganja in stock in the Sandur Excise Office intended for sale in the shops of the State.

As the stock is likely to deteriorate, I request that instructions may be issued for the transfer of the stock to any Ganja depot in the Province.

/True Copy./

To WNR/29-11-48.

Rev.Deptt.

Memo. No.18726 D/48-6 Dated 11-12-48.

Excise - Sandur State - Administration of.

From the Bd. of Rev.(Exc.) C.R.No.25771 Adk/48 dated 23-10-48.

——do——

The Board of Revenue is informed that Sandur State has not yet merged with this Province and that the administration of the State is being carried on by this Government on behalf of the ~~Government of~~ ruler. ~~Sandur~~. Prohibition cannot be introduced in the State until the State has actually merged with this Province. As regards the distillery, instructions have been issued by the Govt. to the Public dept & the District Magistrate Bellary that the distillery may be allowed to resume operations.

2. The Board of Revenue is ~~hereby~~ requested to ascertain from the Collector of Bellary and furnish

the

the following information so that the question of introducing Prohibition in the State may be taken up as soon as the State merges with this Province:-

(1) the excise law now in force in Sandur;

(2) the number of different kinds of excise licences in Sandur and the periods for which the licences have been issued; and

(3) whether any and if so what compensation will have to be given to the licensees if Prohibition is extended to the State before the expiry of the periods of the licences.

To the Bd. of Rev. (Exc.)

BOARD OF REVENUE (EXCISE) DEPARTMENT.

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Subject:-Sandur State - Excise administration - Laws in force - certain particulars - furnished.

Read:- Government Memorandum No. 18726 D/48-Rev. dated 13-12-48.

R. No. 226-Abk

Station, Triplicane, Madras-5. Dated, 5-2-1949.

From

Sri P. Rajagopalachari,
Assistant Secretary, Board of Revenue (Excise).

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V.N. Kudva, Esq., ~~C.I.E.~~., I.C.S.,
Member, Board of Revenue and Commissioner of
Land Revenue, Excise and Prohibition.

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Resolution:-

The Board submits herewith a copy of letter H.P.C. and Tx. 4/15149 dated 12-1-49 from the special officer, Sandur, together with its enclosures, in which the particulars called for in para 2 of the Government Memorandum cited are furnished. The Board considers that the arrack supply contractor may have to be compensated if Prohibition is extended to Sandur State before 18-10-1951. The amount of compensation can, however, be arrived at only after the exact date of extension of Prohibition is known.

Rajagopalachari
ASSISTANT SECRETARY.
(~~Irrigation~~) ~~in charge~~.

To

The Secretary to Government, Revenue Department,
(with enclosures).

MRS:7-2.

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Copy of letter H.P.C.& Tx 4/15-1-49 dated 12-1-49, from the Special Officer, Sandur, to the Collector, Bellary.

Sub:-Sandur State Excise Administeration certain information called for.

Ref:-Collector's Ref.C.No.12173/48 dated 31-12-48.

W 13-15 info

The Sandur Excise Act V of 1937 (adapting the Mysore Excise Regulations V of 1901 (amended upto 1923) is inforce in Sandur State. I enclose a copy of the three enactments.

2. No persons were licenced to sell excisable articles such as arrack toddy and Ganja as they were worked out Departmentally by the State. There are no opium shops in the State.

No ,compensation will be payable on this account. In the case of arrack supply, however, a distillery was established by a private distiller under an agreement with the state. A copy of the Memorandum of agreement between the Sandur State and the Distiller is enclosed for information.

W 16-19 info

No other licences are issued to the Distiller.

/True Copy/.

THE SANDUR EXCISE ACT, 1937.

Act V of 1937.

An Act to consolidate and amend the law relating to the import, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in Sandur State, passed by Shrimant Maharaj Sarkar Yeshwantrao Hindurao Ghorpade, Mamlakatmadar, Senapathi, Ruler of Sandur, on the 30th November 1937. being theyear two hundred and nine of the Hindurao Shaka

Whereas it is expedient to consolidate and amend the law relating to the import, expot, transport, maunfacture, sale and possession of intoxicating liquor and of intoxicating drugs in Sandur Raj it is hereby enacted as follows:-

Part I.

PREMILIMINARY AND DEFINITIONS

1. (i) This act may be called THE SANDUR EXCISE ACT, 1937;

(ii) It extends to the whole of sandur Raj; and
(iii) It shall come into force at once.

2. On and from this date "The Mysore Excise Regulation, 1901 (No. V of 1901), as amended by Regulations IV of 1902, V of 1904, V of 1906, VIII of 1913, V of 1920 and III of 1923 shall be deemed to b law in Sandur State with the following amendments:

(1) (a) In Section, 1, delete the words "The Mysore Excise Regulation 1901" and insert the words "The Sandur Excise Act, 1937" instead.

(b) In section 1, delete the sub-clauses.

(2) Delete Section 2 entirely.
(3) In Section 3, Sub-clause (6) delete the word "Indian" and insert "Sandur" instead.
(4) In Section 3, Clause 13, line 5 delete the words "the Indian Opium Act, 1878," and insert the words "The Sandur Opium Act, 1937."
(5) In Section 4, delete sub-clauses (a) and (b)
(6) In Section 26, sub-clause (c), line 4, delete the words "or of any offence under merchandise marks Regulation, 1892, or under Sections 478 and 489 I P.C. 1860" and insert instead "or of any offence under sections 466 and 477 Sandur Penal Code, 1931."
(7) In section 57, sub-clause (a) 7, delete "272 of the I.P.C. andinsert instead "261 of the Sandur Penal Code"; in sub-clause (c) of the same section, line 9, delete "482 of the Indian Penal Code and insert instead "475 of the Sandur Penal Code," and in sub-clause (d) line 7, delete the words "486 of the Indian Penal Code" and insert "474 of the Sandur Penal Code."
(8) In Section 68, line 3, delete the words "67 68 and 69 of the Indian Penal Code" and insert instead "57, 58 and 59 of the Sandur Penal Code."
(3) In the Mysore Excise Regulations 1901, wherever the words "Regulation" and Mysore" occur, they shall be read as "Act" and "Sandur" respectively, and wherever the words "Excise Officer," "Excise Commissioner" or "Deputy Commissioner" occur they shall be understood to refer to the Secretary to Government in charge of Excise Department.

4. On and from this day all previous Enactments, Orders, Rules and Regulations having the force of law in this regard are hereby repealed.

THE SANDUR OPIUM ACT, 1937.

Act VI of 1937.

An Act to consolidate and amend the law relating to Opium, passed by Shrimant Maharaj Sarkar Yeshwantrao Hindurao Ghorpade, Mamlakatmadar, Senapathi, Ruler of Sandur, on the 30th November

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1937, being the year two hundred and nine of the Hindurao Shaka.

Whereas it is expedient to consolidate and amend the law relating to opium in Sandur State, it is hereby enacted as follows:-

1. (1) This Act may be called THE SANDUR OPIUM ACT, 1937.
(2) And shall come into force at once.

2. On and from this date the Indian Opium Act, 1878 (Act No. I of 1878), as repealed-and-amended by India Act XII of 1891 and IV of 1894 shall be deemed to be law in Sandur State with the following amendments:

(1) In Section 1, delete the words "The Opium Act, 1878" and insert the words "The Sandur Opium Act, 1937" instead, and also delete the two sub-clauses.

(2) Delete Section 2.

(3) In Section 3, delete the definition of the word "Magistrate" as it stands and insert the following instead:

"Magistrate" means a Magistrate of the First Class or (when specially empowered by Government to try cases under this act) a Magistrate of the Second Class.

(4) In Section 16, line 2, delete the words "Code of Criminal Procedure, 1882" and insert the words "Sandur Code of Criminal Procedure, 1931" (Act XVI of 1931).

(5) In Section 19, sub-clause line 2, delete the words "Code of Criminal Procedure, 1882" and insert the words "Sandur Code of Criminal Procedure, 1931" (Act XVI of 1931).

(6) In Section 22, delete the proviso.

(7) In Section 25, delete the words "Indian Contract Act, 1872" and insert the words "Sandur Contract Act, 1931" (Act X of 1931).

3. In "The Indian Opium Act " whereever the words

(a) "The Governor-General in Council" occur they shall be understood to refer to the Huzur.

(b) "Local Government" or "Collector of the District" occur they shall be understood to refer to the Government of Sandur.

(c) "Deputy Commissioner" occur they shall be understood to refer to the Secretary to Government in chanrge of Excise Department.

(d) "Gazette of India" or "Local Gazette" occur they shall be understood to refer to the Sandur State Gazette.

4. On and from this day all previous Enactments, Orders, Rules and Regulations having the force of law in this regard are hereby repealed.

THE SANDUR EXCISE (AMENDMENT) ACT, 1945

(Act I of 1935).

AN Act tp amend the sandur Excise Act, 1937 (Act V of 1937) for certain purposes, passed by SHRIMANT SARKAR MAHARAJ YESHWANTRAO HINDU RAO GHORPADE, MAMLAKATMADAR SENAPATHI, RULER OF SANDUR, on the fifteenth day of Kartheek Suddha of Parthiva Samvatsar corresponding to the nineteenth day of November One thousand nine hundred and forty five being the year two hundred and seventeen of the Hindu Rao Shaka.

PREMABLE. WHEREAS it is deemed expedient for certain purposes to amend the Sandur Excise Act, 1937 (Act V of 1937), WE are hereby pleased to enact as Follows:-

SHORT TITLE EXTEND AND COMMENCEMENT. 1. (i) This act may be called "THE SANDUR EXCISE (AMENDMENT) ACT, 1945".

(ii) It extends to the whole of Sandur State; and

(iii) It shall come into force at once.

2. Add the following at the end of sub-clause(1) of Section 3 of Sandur Excise Act, 1937 (Act V of 1937 :-

"and such other substances as the Sandur Sarkar may from time to time notify to be an excisable commodity".

Sign Manual.

MEMORANDUM OF AGREEMENT.

THIS Memorandum of agreement made this nineteenth day of October 1946 between the Government of Sandur State (hereinafter called the State) on the one part and Moola Lakshmi Narayanaswamy, son of Moola Venkatarangiah, Hindu, residing at Tadapatri, Anantapur District refer to herein as the supplier of the other part;

WHEREAS the supplier has undertaken to establish at Sandur a distillery for the manufacture of country spirits and supply the same to the State, it is hereby agreed to as follows:-

1. The State has not under immediate contemplation the introduction of prohibition in the state and will not also introduce such Prohibition at their own initiative during the period of presents.

2. The supplier shall within a period of one month from the date of execution of this agreement, establish a distillery eompleting the construction of necessary buildings and erection of the plant.

3. The State shall issue a licence a license for the establishment of a distillery in the State according to the rules in force in the State governing issue of such licenses. The supplier shall be bound by such rules and amendments or alterations made thereto from time to time.

4. The State agrees to purchase from the distillery of the supplier not less than 500 gallons of arrack of 35 U.P per month.

5. This contract will be in force for a period of 5 years from the date of this agreement.

6. If for any reason the State does not purchase the full quantity of 500 gallons of arrack of 35 U.P. in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the state.

7. The State will afford all reasonable facilities, if needed to the supplier for getting the raw materials such as jaggery, ammonia, sulphuric acid and fire-wood for the purposes of distillation from outside the State. P.T.O.

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8. The State hereby agrees to pay the cost of liquor to the credit of the account of the supplier with the Central Bank of India Limited at Tadapatri within a week from the date on which the liquor is purchased and accounted for and the bill sent to the State authorities.

9. A suitable plot for the construction of the distillery and its allied buildings will be given on a nominal rent of Rs.10/- per annum per acre, if such land as is selected by the supplier is not at the time in actual possession of the Government. It is also agreed that the electric line posts shall be extended to the distillery building at the cost of the State.

10. The State shall supply casks for filling the liquor at its own cost at the distillery.

11. The State shall see that due justice, safety and cordial relationship to the supplier's legal representatives are extended during the tenure of their office in the State.

12. The rate at which the country spirit is supplied by the supplier to the State shall be Rs.5/- (Rs Five) per gallon or arrack of 35 U.P. and the delivery shall be at the distillery, provided that, if in the event of the State being in a position to purchase arrack in excess of 1500 gallons a month, at shall be open for both the parties to reconsider the rate.

13. The construction of necessary buildings and the erection of the plant for the proper working of the distillery shall be carried out at the cost of the supplier.

14. The supplier shall supply every month 500 gallons of arrack of 35 U.P. or more as and when requisition under the same conditions set out above, In case of default on the part of the supplier to supply the minimum quantity of 500 gallons agreed upon, he shall be liable to compensate the State in respect of the deficiency at the rate of Rs.15/- a gallon.

15. For the fulfilment of this agreement so far as the starting of the distillery is concerned, immediately after the execution of this agreement, the supplier shall deposit with the state a sum of Rs.500/- (Rupees five hundred only) as earnest money which shall be returned to

to him immediately after the starting of the distillery as as per terms of this agreement and that such amount not exceeding the deposit shall be at he disposal of the Government for the failure on the part of the Supplier to start the distillery as above but not on account of the circumstances that are beyond his control.

16. The supplier shall pay to the Government the local rates and taxes as per laws in force in state as on the date of signing this agreement viz.,

1. Income-tax as per Sandur Income-tax (Amendment) Act, 1942 (Act VIII of 1942)

2. Mohtarfa-tax as per rules issued under Notification No. 17 dated 12th November 1939 of the Department of LaW & Order as revised by G.O.Notification No.KA-103(HZ)-43, dated 1st April 1943.

3. Distillery licence fee of Rs. 50/- per annum.

17. At the close of the period of the contract, provided that there are no state dues existing at that time against the Supplier, he will be at liberty to remove all materials, machinery etc., which are his property and not otherwise.

18. If, however during the period of his contract of at the end of the business or the buildings or other properties thereto, the State shall have the prior right of purchase.

19. All facilities will be granted to Government Excise Officers to inspect the distillery at all times.

20. The Supplier shall make proper arrangements for the necessary watch and ward at the distillery at his own cost.

In witness whereof the parties hereto have set their

P.T.O.

17

their hands and seals this day and year first above written.

Signed, sealed and delivered by the Chief Assistant the Mantri Mandal on behalf of the Sandur State as authorised by the Government in the presence of

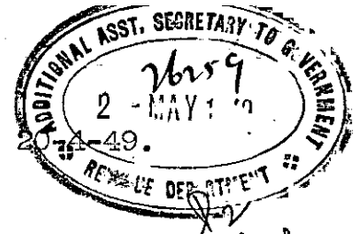
T.S.Krishnaswami,
Chief Assistant to Mantri Mandal.

1.SD/ Khasimallisab (in Kanarese)
2. Sd. Muppadasetti Subbannan (in Kanarese)

Signed, sealed and delivered by the said M.L.Narayanaswamy in the presence of:-

Sd/- M.L. Narayanaswamy.

1. Sd. K.V.Narasimhachar.



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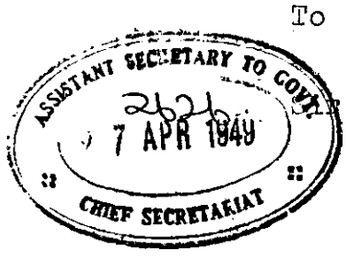
L.Dis.No.4441/49 C.C. Dated. 20-4-49.

From Sri.A.Surya Rao Naidu, B.A.,
Collector incharge, Bellary.

To The Chief Secretary to Government,
Fort St.George, Madras.



Sub:- Prohibition- Sandur State- Introduction of- Mahazar Petition from the public.

Ref:- Petition dated 23-3-49 from the Sandur Praja Parishat.

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I enclose herein the Mahazar petition of the Sandur State Praja Parishat, requesting for introducing prohibition in Sandur State. The arrack shops were not worked from 29-7-48 as a security measure; but under ~~order~~ the orders of Government they were resumed from 26-1-49. No doubt the resumption surprised so many people and specially the Sandur Praja Parishat, which is a parellel organisation to the Indian National Congress The Special Officer Sandur has reported that Sandur has become a rendezvous for habitual drunkards from the dry areas of this district. It can therefore be said that in a way, the excise administration in Sandur State, is an impediment to the success of the Prohibition scheme of this district.

But befor-e considering the introduction of prohibition in Sandur State, it is essential to cancel the agreement between the distiller and the Government of Sandur, whereby the Government are bound to purchase without fail, a quantity of 500 gallons of arrack every month. This contract will be in force till 1951 unless cancelled. The representations of the Sandur Praja Parishat are bonafide and one of the essential reforms of the State seems to be the introduction of Prohibition, more so, in view of the fact that on all sides, Sandur is surrounded by dry areas.

hvr.21/4.

Collector incharge.

21

ASSISTANT SECRETARY TO GOVT. 3076 14 MAY 1949 CHIEF SECRETARIAT

Public (Poll) Deptt.

The Collector of Bellary recommends the introduction of prohibition in Sandur. The State has merged with the Indian Union with effect from 1.6.49 & the Govt of India have under the Extra Provincial Jurisdiction Act, delegated to this Govt the powers ceded to them for the governance of the State. This may be transferred to Revenue for necessary action (The memorial referred to at A on b/f above has not been received; Rev. may call for it from the Collector, if necessary)

Pub (Poll) W 2626/49-1 3/5/49

29.4.49. Cut 22.4.49. AR 30.4.49 Rev

Dp fo

Rev. Deptt.

To S.J.

Please see the letter from the Collector-in-charge, Bellary on plaints and the notes of Pub (Poll.) above. The file of this Deptt. on the subject of introduction of Prohibition in Sandur (C.No. 18726 D/48) has been linked with a Pub (Poll) Deptt file and sent to that Deptt. in the Rev No. No. 17743 D/49-1 dt 4.4.49. Pub (Poll.) may be requested to return this Deptt's file referred to above [The draft memo. to be issued calling for the memorial petition referred to in the Collector's letter is also for approval. It will be issued for issue before the file is sent to Pub (Poll).]

Pub (Poll) No 1698/49-1 dt 22-3-49

A 10/5/49 dt 11/5/49

Pub (Poll.)

12/5/49

Pub (Poll)

Rev (Poll) No. 26259 D/48 P2 dt 12-5-49

L.Dis.C.5688/49 C.C. Dated. 18-5-49.

From E.C.Allardice Esq.,I.C.S.,
Collector, Bellary.

To The Secretary to Government,
Revenue Department,
Fort St.George, Madras.

Sir,

Sub:-Prohibition -Sandur State-Introduction of Mahazar Petition from the Public.

Ref:-Govt.Memo No.26259-D/49-1,dated 12-5-49.

The Mahazar petition from the Public of Sandur, referred to in the above memorandum is enclosed.

2. The mistake is very much regretted and action is being taken against the clerk responsible.

HVR.18/5.

COLLECTOR,BELLARY.

A No ಬರಬಾಕಿ/ಬರಬೇಕಾದ

SANDUR STATE PRAJA PARISHAT

ಸೊಂಡೂರು ಸಂಸ್ಥಾನ ಪ್ರಜಾಪರಿಷತ್ತು,

Sahakara Sangha Sandur

(Office at:- ~~D.C.C. Office Brahmin Street, Bellary~~)

PRESIDENT:- T. RAYANA GOWD PATIL, B. A.,

BAILHONGAL. : : M. & M. S. Ry.

Sandur

BELLARY 23. 3. 1949

MERGER IS OUR AIM

ವಿಳಾಸದ ಸಂಖ್ಯೆ

To,

The Special officer

Sandur.

Respected Sir;

We the undersigned beg to submit the following for your Kind Consideration and favourable early orders.

There was complete prohibition of Arae ~~sin~~ drinkin since the day of taking over the administration of Sandur State. For nearly six months people lead a happy and Contented life and peaceful life. After six months drinkin Arae was again introduced. we do not know the reason why this was reintroduced. Now ~~peop~~ some people are drinking to their hearts Content and they begin to abuse respectable people in the Village. It is very difficult for the people to leade a contentes and peaceful life. They quarrel (drunkards) in the street in the Bazars, in the houses and in the temples

We have understood that many of our brothers outside come to drink in our Village shop. It is also known to us that Some quantity of Arae is brought from outside

We request you to make our Village dry by introducing prohibition. We also believe that you will help your brothern. Please take the earliest step.

We remain
Sir.

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SANDUR STATE PRAJA PARISHAT

ಸೊಂಡೂರು ಸಂಸ್ಥಾನ ಪ್ರಜಾಪರಿಷತ್ತು,

Sahakara Sangha Sandur

(Office at:- ~~D.C.C. Office Brahmin Street, Bellary~~)

PRESIDENT:- T. RAYANA GOWD PATIL, B. A.,

BAILHONGAL. : : M. & M. S. Ry.

Sandur

BELLARY _____ 19

MERGER IS OUR AIM

ವಿಲೀನವೇ ನಮ್ಮ ಗುರಿ.

Government of Madras.
***

Extract from Public (Political) Department file No.2677/49.

States - Sandur - Merger - Taking over the administration of Departments.
...

Under instructions from the Government of India this Government took over the administration of Sandur State in July 1948. From then the administration of the State is being carried on by this Government in the name and on behalf of the Ruler. All matters relating to the administration of the State were being attended to in this department.

2. Now the Ruler of Sandur has signed the merger agreement agreeing to the merger of the State with the Indian Union with effect from 1-4-49. The Government of India have also issued a notification delegating to this Government under the Extra Provincial Jurisdiction Act, necessary powers for the governance of the merged area. The Government of India notification will be published in an extraordinary issue of the Fort St.George Gazette.

3. It has already been decided that in respect of the merged States the Departments of the Secretariat should attend to the matters (including the extension of laws) with which they are concerned - Vide Public (Political) U.O.Note No.2971/48-2 dated 5-8-48. The Departments of the Secretariat may therefore be requested to take necessary action for the taking over the administration of the Departments in the Sandur State with which they are concerned by the concerned Heads of Departments of this Government.

4. As regards the extension of the laws in force in this Province to Sandur this Department have suggested in a note to be sent to Home Department that the laws in force in this Province need not be extended immediately and that pending the extension of the laws in force in this Province, the State laws may be retained and that orders may be issued retaining the existing State laws and judicial institutions. Orders in this regard will be issued in Home Department. It seems that to enable our Heads of Departments to take over the administration of the departments in the State and
A. run them with reference to the State laws a formal authorisation by Government under the Extra Provincial Jurisdiction Act,1947 will be necessary. Legal may be requested to advise.

xx xx xx

Legal Department.

B A on page 2 ante: This Department agrees with the view of the Public (Political) Department expressed here.

xx xx xx

Public (Political) Department.

A.R.N. Proposal (i) above. Extracts of paragraphs 1 to 4 of this department's note on pp.1-2 and of Legal's note at B on page 3 above may be sent to all departments of the Secretariat (all sections) including Public for necessary action.

In the case of Pudukkottai and Banganapalle each notification was issued separately by the department concerned and the same procedure may be followed in the case of Sandur also. Each Act may

be/...

2)

-2-

be examined separately and applied to Sandur in the orders of urgency with such modifications, adaptations or omissions as are necessary. There seems to be no special advantage in issuing a consolidated notification. On the other hand the consolidation work is likely to cause delay and complications. It might be necessary to extend some of the fiscal Acts immediately for administrative or other reasons and it seems unnecessary to delay such Acts for the sake of issuing an omnibus and consolidated notification. Such a notification with various modifications and saving clauses and schedules will also be inconveniently large and cumbersome. The departments may therefore examine each case and issue a consolidated notification in respect of all the Acts with which they are concerned as far as possible. Urgent and isolated cases may be dealt with separately.

xx xx xx

I still think that for the reasons stated at page 5 ante it would be more convenient to leave it to the departments concerned to issue a consolidated notification in respect of all the Acts with which they are concerned. As all notifications will be scrutinised by Legal and as that department have recently circulated to all departments a model notification, uniformity in language may be expected.

A.

xx xx xx

A.R.N.
16-5-49.

I agree. The procedure suggested at A above may be followed.

C.K.V.
17-5-49.

Public (Political) Department.

U.O.Note No.2905/49-2 dated the 19th May 1949.

Communicated to the Departments of the Secretariat. for necessary action.

C.K.Vijayaraghavan,
Chief Secretary to Government.

To the Departments of Secretariat including Public (all sections.)

Forwarded/By order

Superintendent.

mdk.23/5-

State - Sandur - Merger
Relinquishment of Rights.
Ref. GO Ms No 1145 Pub dt 27-4-49.
GO Ms No 1161 Pub 29-4-49

Revenue Department.

227901

ASST. SECRETARY TO GOVERNMENT
D. Secretariat
2 MAY 1949
REVENUE DEPARTMENT

To A.S.

Please see the U.Os. on pp.1-9 ante.

2. Consequent on the merger of Sandur State into the Indian Union, the questions whether the State may be treated as an independent sub-taluk of Bellary dist. and whether the post of Spl.Officer who is in charge of the administration of the State may be converted into that of Dy.Tahr. are being considered separately.

3. As regards extension of the Acts to Sandur State, it is understood from the Pub.(Pol.) that the question whether the issue of notifications in respect of all Acts to be extended to Sandur State may be done in Legal Dept. has been raised by that Dept. That Dept. will no doubt issue necessary instructions in the matter in due course. However, before the issue of notification, proposals regarding the extension of Acts to Sandur State will have to be examined and orders obtained in circulation in this Dept. It is therefore for orders whether this Dept. may take up the question of extension of Acts with which Rev. are concerned, to the Sandur State.

This Dept. may examine the qn. in the light of the orders issued in regard to Pudukkottai and Banganapalle. The Bd. may also be consulted. A

V.S.
10-5-49
M.V.S.

4. Pub.(Pol.) may see for remarks.

V.S.
10-5-49

M.V.S.
10-5-49

Pub.(Pol.) Dept.

Notes of Rev. on p.10 ante may be perused. The procedure suggested at A ~~on p.10 ante~~ may be agreed to and the file returned to revenue.

17-5-49.

To A.S.

Please see the notes from p.10 ante. The Pub.Dept. have agreed to the proposals at 'A' ~~on p.10 ante~~ above. Extracts of the notes may be given to all sections for necessary action in respect of Acts with which they are concerned.

Sections to attend to this expeditiously.

V.S.
23-5-49.

Government of Madras.
Public (Political) Department.
***
U.O.Note No.2905/49-3 dated the 26th May 1949.

SECRETARIAT 34157 31 MAY

States - Sandur - Merger - Taking over administration of States Departments and application of Provincial and Central laws.

U.O.Note No.2905/49-2 Public (Political) dated 19-5-1949.

Extracts of notes Public (Political) Department file bearing C.No.2677/49.
...

The Departments of the Secretariat may be requested to substitute the following extracts for those communicated with the U.O. note of the same number and date as mentioned above:-

Now the Ruler of Sandur has signed the merger agreement agreeing to the merger of the State with the Indian Union with effect from 1-4-49. The Government of India have also issued a notification delegating to this Government under the Extra-Provincial Jurisdiction Act, necessary powers for the governance of the merged area. The Government of India notification has already been published in an extraordinary issue of the Fort St.George Gazette.

It has already been decided that in respect of the merged States the Departments of the Secretariat should attend to the matters (including the extension of laws) with which they are concerned - vide Public (Political) U.O. Note No.2971/48-2 dated 5-8-48. The Departments of the Secretariat may therefore be requested to take the necessary action for the taking over the administration of the Departments in the Sandur State with which they are concerned by the concerned Heads of Departments of this Government.

As regards the extension of the laws in force in this Province to Sandur this Department have suggested that the laws in force in this Province need not be extended immediately and that pending extension of the laws in force in this Province, the State laws may be retained and that orders may be issued retaining the existing State laws and judicial institution. Orders in this regard will be issued in Home Department. It seems that to enable our Heads of Departments to take over the administration of the Departments in the State and run them with reference to the State laws a formal authorisation by the Government under the Extra Provincial Jurisdiction Act,1947 will be necessary. Legal may be requested to advise.

As regards the application of the laws in force in this Province, both Provincial and Central to Sandur the Departments of the Secretariat will have to take necessary action for the extension of Acts with which they are concerned. bearing in mind the general instructions issued by the Government of India in their letter No.F.41(7). IB/48 dated 25-2-48. Recently in connection with the application of these laws to Pudukkottai and Bananapalle Legal Department expressed the desirability of issuing a consolidated notification in the place of the piecemeal notifications issued by the different Departments of the Secretariat. Legal may be requested to consider the expediency of asking the different Departments to send to them in due course proposals for the extension of Acts with which they are concerned so that a consolidated notification may be issued from Legal.

Legal may see for remarks.

A.R.N.
29-4-49. Legal.

Public (Political) U O.
No.2677/49-1 d/29-4-49.

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Legal Department.

B. A above: This Department agrees with the view of the Public (Political) Department expressed here.

B ibid: The notifications in respect of Pudukkottai and Banganapalle extending the Central and Provincial Acts were issued by the administrative Departments concerned and in some cases by the Public (Political) Department. Before extending the Acts to those two States, heads of departments were consulted as regards modifications to be made in those Acts. Similarly, before extending particular Acts to Sandur it may be desirable, and even necessary, to consult heads of departments concerned and make modifications, if any, that may be required in the Act. This Department may, therefore, suggest that the notifications may be prepared by the administrative departments concerned and then sent to Public (Political) for consolidation and issue. Public will no doubt refer any legal point which may arise to this Department for advice, and also send the consolidated notification for scrutiny by this Department.

(Sd.) xx xx xx
A.S.I. A.S.II. J.S. K.V.R.
7/5/49. 7/5/49 7/5/49 7/5/49.

Public (Political)

Legal U.O.No.5634/49-1
dated 7-5-1949.

Public (Political) Deptt.

The proposals in this file relate to (1) the taking over the administration of Departments in Sandur by the Heads of Departments concerned and (ii) the extension of laws in force in this province to Sandur.

A.R.N. Proposal(i) above. Extracts of paras 2 to 4 of this department's note above and of Legal's note at B above may be sent to all Departments of the Secretariat (all sections) including Public for necessary action.

Proposal (ii) above. Legal suggest that this department may collect proposals from the different departments of the Secretariat for the extension of laws to Sandur and then take necessary action for issuing a consolidated notification. It is submitted that if this work is to be undertaken in Public Deptt. then an additional upper division clerk will be required to deal with the subject. As previous proposals for sanction of additional staff for Public (Political) had to be dropped due to the objection of Finance department it is for consideration whether this work may be taken up by this department and the sanction of the post of an additional upper division clerk asked for or in the alternative whether the departments of the secretariat may be asked to issue a consolidated notification in respect of all the Acts with which they are concerned.

In the case of Pudukkottai and Banganapalle each notification was issued separately by the deptt. concerned and the same procedure may be followed in the case of Sandur also. Each Act may be examined separately and applied to Sandur in the orders of urgency with such modifications, adaptations or omissions as are necessary. There seems to be no special advantage in issuing a consolidated notification. On the other hand the consolidation work is likely to cause delay and complications. It might be necessary to extend some of the fiscal Acts immediately for administrative or other reasons and it seems unnecessary to delay such Acts for the sake

of/...

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of issuing an omnibus and consolidated notification. Such a notification with various modifications and saving clauses and schedules will also be inconveniently large and cumbersome. The Departments may therefore examine each case and issue a consolidated notification in respect of all the Acts with which they are concerned as far as possible. Urgent and isolated cases may be dealt with separately. There will be no need for any additional staff of the above suggestion is accepted.

Legal may perhaps see again.

A.R.N.
12-5-49. C.K.V.
12-5-49. Legal.

Pub.(Poll.)U.O.No.
2905/49-1 d/12-5-49.

Legal Department.

Seen in Legal.

The difficulties and disadvantages of each Department issuing separate notifications have already been pointed out by this Department in another file. A copy of that note is placed at flag (V). This Department has no further remarks to offer.

xx xx
A.S.I. A.S.II.
13/5/49. 14-5-49.

If separate notifications are to be issued, apart from the difficulty pointed out in the note at 'V', there will also be the possibility of some of the Acts being omitted, each department thinking that it is not concerned with them, or of some of the Acts being extended by more than one department, one department not being aware of ~~this~~ extension by the other. It is for these various reasons that this department advised the issue of a single consolidated notification.

xx xx
14/5/49.
Pub.(Poll.)

Legal U.O.No.
6036/49-1 d/14-5-49.

Public (Political)Deptt.

It appears from the Legal department note above that they reiterate their original proposal. If that is to be pursued additional staff is absolutely necessary. Public (Political) has already 4 upper division clerks and one Superintendent. If the additional upper division clerk is attached to Public (Political) the section has necessarily to be bifurcated. It is also submitted that the work in this file is not of an ordinary nature and the attention of a full time Superintendent is necessary for the subject. Submitted for orders.

A. I still think that for the reasons stated at page 5 ante it would be more convenient to leave it to the departments concerned to issue a consolidated notification in respect of all the Acts with which they are concerned. As all notifications will be scrutinised by Legal and as that department have recently circulated to all departments a model notification, uniformity in language may be expected. The possibility of some of the Acts being omitted can be avoided by checking the list of Acts extended by the departments. For orders whether in the circumstances the question of issuing a consolidated notification by Public (Political) may be dropped. If, however, it is considered that Public (Political)

C.K.V.
17/5

should/...

should undertake the work, Finance may be requested to agree to the proposal to sanction the post of a Superintendent, say, for 2 months for the present.

A.R.N
16-5-49. C.S.

I agree. The procedure suggested at A above may be followed.

C.K.V.
17-5-49.

/True copy/

To the Departments of the Secretariat
including Public(all sections.)

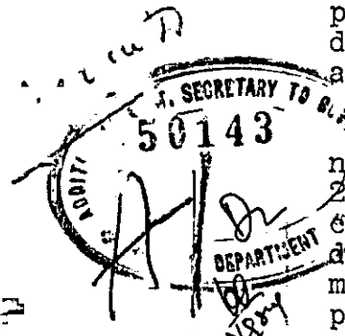
mdk.26/5-

Superintendent.

Extract from Pub (Poll) 2nd Note Re 2807/48-4 dt 5-7-48 relating to the State of Sandur

Collector's Report Rep: (No. 5364/48 ee) 4-6-48

24. Excise: This branch is under the control of the General Secretary. There are no toddy shops in the State. But there are 5 arrack shops and 500 gallons of arrack are purchased by the State department every month from a distillery in Sandur on contract and sold by departmental agency. The period of contract is upto 1951.



25. From 29-7-1948 till 26-1-1949 the arrack shops did not work for security reasons; but they were re-opened on 26-1-1949 under orders of the Government. The contractor claimed compensation for breach of conditions of the contract during the period from 29-7-1948 to 26-1-1949, and the matter has been separately reported to Government. A compensation of about Rs.10,500 is payable to the distiller and the orders of the Government are awaited.

Extracts noted to file w.r.t. orders in file G.O. No. 476542/48

34

Revenue Deptt

Memo No 18726 D/Cf - 11 of 2-9-48

2 Drafts

Excise — Sandur Closure of

distillery — Payment of Compensation

From the Collector of Bellary Rpt ONS 5364/Cf CC of

₹334 4.6.Cf

₹41 of 9.6 In his letter of 8.2.Cf ~~the~~ Sri M.L Narayanamurti had stated that the period for which the distillery at Sandur was closed was five months from August to December 1948 and had claimed compensation for those 5 months. In his report quoted above the

₹334 Collector has however stated that the arrack shops were closed from 29.7.Cf till 26.1.Cf and that the contractor has claimed compensation for breach of

35

Conditions of the Contract during the period from
29.7.41 to 26.1.42. The Collector is requested
to verify & report the period for which
Compensation Less to be paid to the distiller

To The Collr of Bellary.
JR 6/2/42

DC
29 Aug

h
1.9.42

BOARD OF REVENUE (EXCISE) DEPARTMENT 36

Subject:- States - Sandur - Excise Administration-Distillery - Renewal of licence for the period from 1.10.49 to 30.9.1950 Instructions - Solicited.

Read:- From the Collector, Bellary Reference No. 7963/49, S.L. dated 17.9.49.

No. C.R. 23532 Abk/49 XA2. Dated 28.9.49.

From
Sri P. Rajagopalachari,
Assistant Secretary, Board of Revenue (Excise)

To
M.R.S. Sathianathan Esq., I.C.S.,
Member, Board of Revenue and Commissioner of Commercial Taxes.

Reference:

The Board submits to the Government for early orders a copy of the letter cited received from the Collector, Bellary regarding the continuance of Sandur Distillery beyond 30.9.49. The Board in this connection submits that the copy of agreement said to have been enclosed along with the Collector's letter cited has not been received by the Board and it will be submitted to Government on receipt.

With reference to Government Memorandum No. 31296-A/49-7, dated 16.9.49, the Board submits that a report has been called for in the matter from the Collector, Bellary and it is awaited. The Board will submit its report on receipt of report from Collector, Bellary.

Rajagopalachari
Assistant Secretary.

To
The Secretary to Government,
Revenue Department. (with enclosure).

KVR 4.10.

37

Copy of the letter No. 7963/49 S.1. dated 17.9.49 from the Collector, Bellary.

--oOo--

Subject:- States - Sandur - Excise Administration - Distillery Renewal of licence for the period 1.10.1949 to 30.9.1950 - Instructions - Solicited.

... 1127-29 of LF.

The Arrack Distillery at Sandur is continuing under the orders of Government in their D.O. No. S. 4382.7/48 dated 30.11.48 - a copy of which is enclosed - the state purchasing 500 gallons of arrack every month from the distillery as per the contract entered into by the previous regime with the distiller. Under section 12 of the Sandur Excise Act every Distillery for the manufacture of arrack ought to have a licence. The previous regime collected a fee of Rs.50-0-0 every year towards licence fees but granted no formal licence to him. The Special Officer, Sandur, reports th t the late Sandur Government tried its best to secure a form of the licence adopted by the Mysore Government for the licensing of arrack distilleries, but they could not get one. The Mysore Excise Act was made applicable to Sandur and termed as Sandur Excise Act and hence, only the form adopted by the Mysore Government is to be used for licensing the distiller. The period for which the distiller paid the licence fee expires by 30.9.49 and under the contract, he has to continue till 31.10.1951. I, therefore, request instructions as to the form to be adopted for licensing the distiller from 1.10.1949

2. In this connection, I submit that proposals are under scrutiny, for extending the Madras Prohibition Act to Sandur. Before Prohibition is introduced, the question of termination of the agreement entered into by the State with the distiller has to be examined, for according to the terms of the agreement, if in any month the State fails to purchase 500 gallons of arrack from the distiller, the distiller has to be compensated to the tune of the cost of the arrack not purchased. Already proposals for awarding some compensation to the distiller for the closure of arrack shops from 29.7.1948 to the end of December are under examination by Government. Hence, introduction of Prohibition in the State

P.T.O.

appears to involve Government into financial loss by way of compensation payable to the Distiller. I enclose herewith a copy of the agreement for the Board's ready reference. The matter may kindly be taken up with the Government and orders communicated to me at an early date.

I am ordering the continuance of the distillery beyond 30.9.1949 as per the terms of the contract, and a licence will be issued on receipt of Board's instructions in the matter.

(Sd.) N.V. Sugavanam,
Collector

/True copy/

KVR 4.10.

Revenue Dept

Memo No. 18726 D/48-15 of 27-10-49.

Excise - Saunder - Grant of license

From the Collector of Bellary letter No. 7963/49S, of 17-9-49
From the Board of Revenue Office OR

No. 23502 A60/49 x A2 of 28-9-49.

The Collector of Bellary & the Board of Revenue are informed that if the Saunder distillery is allowed to manufacture arrack without a license, the Govt. will not be able to enforce the usual conditions which are normally imposed in the licence. The Collector & the Board are requested to ~~State their remarks with reference to the effect this aspect of the matter has particularly~~ whether any difficulty will not be experienced if there is no licence. The Collector is also requested to send a copy of the Mysore Excise Regulations

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V of 1901 (amended up to 1923) referred to in the London Equit Act 1937 for reference. The report of the Collector should be sent through the Board of Rev / Town

pl see p 13 of

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VB
Wroy

To the Bdg Rev / Town
.. boiler g Oldbury
Dyd
Hon
27 (w)(w)

15s

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Revenue Department.

Memo. No. 18726 D/48- , dated

Prohibition - Sandur - Introduction - Compensation to the distillery contractor.

Before the merger of Sandur State in this Province the Sandur Darbar had entered into an agreement with one Moola Lakshmi Narayanaswami for the establishment of a distillery at Sandur for the manufacture of arrack. [Under the terms of] The agreement [which] was to remain in force for a period of five years from 19-10-1946. [the State agreed to purchase from the x distillery not less than 500 gallons of arrack of 35° U.P. per month and if, for any reason, the State did not purchase the full quantity of 500 gallons of arrack of 35° U.P. in any month during the period of the contract, the State should compensate the supplier to the extent of the cost of the quantity by which it fell short of 500 gallons. The cost at which the contractor should supply arrack to the State is Rs.5 per gallon of 35° U.P.] A copy of the Memorandum of Agreement is enclosed.

2. The administration of Sandur State was taken over by an officer of this Government on 29-7-1948 afternoon. As a security measure the Government arrack depot in Sandur was sealed and no arrack was issud to the shops for public consumption from 29.7.48 till 26.1.49. Consequently, the distillers did not manufacture arrack during the period. The arrack shops were reopened on 26.1.49 under the orders of the Court and the distillery again resumed operations. The distiller has claimed compensation for the period the distillery was closed. Under clause 6 of the agreement [which] [gives an indication as to what compensation may reasonably be paid in this case,] if the State does not purchase in any month the full quantity of 500 gallons of arrack, the State shall compensate the supplier to

p.t.o.

42

the extent of the cost of the quantity by which the quantity purchased falls short of 500 gallons. The distiller has himself admitted that the cost of each gallon works out to about Rs.4-4-0 (copy of his statement is enclosed). Under clause 12 of the agreement the Government have agreed to pay Rs.5 per gallon. The actual loss to the contractor is therefore the difference between the cost of production and the price stipulated, viz., 12 annas. Five hundred times this amount or Rs.375 per mensem for the period during which the distillery was closed, is the amount which the contractor can reasonably claim by way of compensation. In case the Government decide to extend Prohibition to the Sandur area at any time before the expiry of the contract period, i.e., before 18-10-1951 the distiller may likewise be eligible for a compensation of Rs.375 per mensem for the period from the date of the closure of the distillery consequent on the extension of Prohibition up to 18-10-1951 when the contract expires. The Government of India are however inclined to a different view and consider that compensation should be paid at Rs.5 per gallon for 500 gallons per month. A copy of their letter is enclosed. But there is one aspect which the Govt. of India have not taken into account. The fixing of compensation at so exorbitant a rate as Rs.5 per gallon, when the real loss is only 12 annas, will be in the nature of a penalty within the meaning of section 74 of the Indian Contract Act. The party complaining of the breach is therefore entitled to be paid only reasonable compensation. The contractor cannot well claim to be put in a better position than he would have occupied, if there had been no breach of the contract, and in this view, he does not seem to be entitled to compensation at a rate higher than 12 annas per gallon.

-next page-

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3. The Government Solicitor is requested to obtain and communicate the views of the ~~Advocate-General~~ Advocate-General on the following points:--

(i) ~~what compensation~~ At what rate per mensem compensation should be paid to the distiller under the terms of the agreement entered into with him for the period when the distillery was ~~not functioning, from August 1948 to the end of December 1948~~ closed under the orders of Government (Whether and, if so,)

(ii) at what rate per mensem compensation should be paid to the distiller ~~if that is decided to introduce~~ in the event of the introduction of prohibition in Sandur and if the distillery is ~~conveniently~~ Consequently closed at any time before the ~~expiry of~~ (on which) the period of the contract ~~on~~ 18-10-1951. expires

To the Govt. Solicitor,
Madras, with
copies of letters
and copy of
agreement.

Revenue Department.

Memo. No. 18726 D/48-16, dated 4-11-49

Prohibition - Sandur - Introduction - Compensation to the distillery contractor.

Before the merger of Sandur State in this Province the Sandur Darbar had entered into an agreement with one Moola Lakshmi Narayanaswami for the establishment of a distillery at Sandur for the manufacture of arrack The agreement was to remain in force for a period of five years from 19-10-1946. A copy of the Memorandum of Agreement is enclosed.

2. The administration of Sandur State was taken over by an officer of this Government on 29-7-1948 afternoon. As a security measure the Government arrack depot in Sandur was sealed and no arrack was issued to the shops for public consumption from ~~29-7-19~~ 29-7-1948 till 26-1-1949. Consequently, the distillers did not manufacture arrack during this period. The arrack shops were re-opened on 26-1-1949 under the orders of the Government and the distillery again resumed operations. The distiller has claimed compensation for the period the distillery was closed. Under clause 6 of the agreement if the State does not purchase in any month the full quantity of 500 gallons of arrack, the State shall compensate the supplier to the extent of the cost of the quantity by which the quantity purchased falls short of 500 gallons. The distiller has himself admitted that the cost of each gallon works out to about Rs.4-4-0 (copy of his statement is enclosed). Under clause 12 of the agreement the Government have agreed to pay Rs.5 per gallon for arrack supplied by the distiller. The actual loss to the contractor is therefore the difference between the cost of production and the price stipulated, viz., 12 annas. Five hundred times this amount or Rs.375 per mensem for the period during which the distillery

-45-

was closed, is the amount which the contractor can reasonably claim by way of compensation. In case the Government decide to extend Prohibition to the Sandur area at any time before the expiry of the contract period, i.e., before 18-10-1951, the distiller may likewise be eligible for a compensation of Rs.375 per mensem for the period from the date of the closure of the distillery consequent on the extension of Prohibition up to 18-10-1951 when the contract expires. The Government of India are, however, inclined to a different view and consider that compensation should be paid at Rs.5 per gallon for 500 gallons per month. A copy of their letter is enclosed. But there is one aspect which the Government of India have not taken into account. The fixing of compensation at so exorbitant a rate as Rs.5 per gallon, when the real loss is only 12 annas, will be in the nature of a penalty within the meaning of section 74 of the Indian Contract Act. The party complaining of the breach is therefore entitled to be paid only reasonable compensation. The contractor cannot well claim to be put in a better position than he would have occupied, if there had been no breach of the contract, and in this view, he does not seem to be entitled to compensation at a rate higher than 12 annas per gallon.

3. The Government Solicitor is requested to obtain and communicate the views of the Advocate-General on the following points:

(i) At what rate per mensem compensation should be paid to the distiller under the terms of the agreement entered into with him for the period when the distillery was closed under the orders of Government, and

(ii) whether, and, if so, at what rate per mensem compensation should be paid to the distiller in the event of the introduction of prohibition in Sandur and if the distillery is consequently closed at any time before

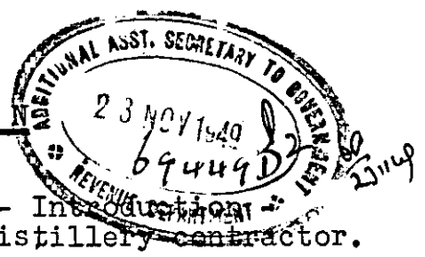
18-10-1951, the date on which the period of the contract expires.

V.N.
1-9-1949.

V.K.R.
1-9-1949.

To the Govt. Solicitor, Madras, with copies of letters and copy of agreement.

No.49.



O P I N I O N

Sub: Prohibition - Sandur - Introduction of Compensation to the distillery contractor.

Ref: Memorandum No.18726-D/48-16 dated 4.11.49, Revenue Department.

It has been authoritatively laid down by Their Lordships of the Privy Council in the case of Sally Wertheim vs. Chicoutimi Pulp Company, 1911 A.C.301 at page 307 that it is the general intention of the law that, in giving damages for breach of contract, the party complaining should, so far as it can be done by money, be placed in the same position as he would have been in if the contract had been performed. The law in India is not different and is to be found in sections 73 and 74 of the Indian Contract Act. Under the former section, when a contract has been broken, the party who suffers by such breach is entitled to receive from the party who has broken the contract, compensation for any loss or damage caused to him thereby which naturally arose in the usual course of things for such breach or which the parties knew, when they made the contract, to be likely to result from the breach of it. Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach. Under section 74, it is enacted that even where a sum is named in the contract as the amount to be paid in case of such breach or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled to receive from the party who has broken the contract only reasonable compensations; thus bye passing a most troublesome knot in the common law doctrine of damages, viz., whether the sum named in the contract as payable in case of breach is a penalty or liquidated damages. It is clear therefore that the distiller in the case

on...

on hand can only claim the loss he has actually sustained (33 CWN 949 - 1929 P.C.179 A.I.R.: I.L.R. 60 Cal. 1379 - 1934 Cal.285). According to his own statem nt the cost of manufacture of arrack per gallon is Rs.4/4/- and the State agreed to pay him at Rs.5/- per gallon. The loss to him is therefore annas 12 per gallon and he is entitled only Rs.375/- for 500 gallons per month for the period during which the distillery was closed or may hereafter be directed to be closed.

In my view, the case on hand is not governed by clause 6 of the agreement at all but would appear to fall outside its scope and intendment. Clause 6, according to its true interpretation, does not appear to cover the contingency which has happened. I presume that under the contract, the arrack manufactured by the distiller has to be sold only to the State. The State has in its turn agreed to purchase from him not less than 500 gallons per month and the distiller is in consequence bound to have that quantity ready for supply to the State every month. The contract, therefore, provides that in case of default on the part of the State to purchase the full quantity, the supplier is to be compensated to the extent of the cost of the quantity by which it falls short of 500 gallons. This contemplates the contingency of the supplier having manufactured 500 gallons and the State not taking that quantity. It is reasonable that in such an event, the supplier must be paid in full the cost of the entire 500 gallons. But where for any reason, the distillery itself is not allowed to be worked and the supplier does not incur any expenditure in manufacture, the measure of damages can only be reasonable compensation, viz., loss of profits at 12 annas per gallon.

The...

The measure of damages can only be under section 73 of the Indian Contracts Act; and the 'cost' cannot furnish the guide for assessment.

M A D R A S,
18th/21st November 1949.

K. Rajah Iyer
ADVOCATE-GENERAL.

/TRUE COPY/

GOVERNMENT SOLICITOR.

GRB:

50

From

H. M. SMALL Esq., M.A., LL.B.,
Government Solicitor,
MADRAS.

To

The Secretary to the Government
of Madras,
Revenue Department,
Fort St.George, MADRAS.

No. 4393 Dated 21st November 1949

Received on 21st November 1949.

Dispatched on

Forwarded with reference to Memorandum No.18726-D/48-16 dated 4th November 1949.

H. M. Small

GOVERNMENT SOLICITOR.

4394.

Copy to the Secretary to the Government
of Madras,
Legal Department,
Fort. St. George,
MADRAS.

BOARD OF REVENUE(EXCISE)DEPARTMENT
-- RPN --

Subject:- Sandur State-Merger-Taking over the administration and extension of laws-Report-Submitted-

Read:-From the Govt.,Rev.Dept.Memo.No.31296/A/49-2,d/6-7-49.
2.Board's ref.C.R.No.23532-Abk/49-XA2,d/28-9-49.
3.From the Collector,Bellary,Ref.C.No.7194/49-S.1,d/20-9-49.

C.R.No. 23532-Abk/49-XA2

Station,Triplicane,Madras,5, Dated 11-10-1949.

From

Sri P. Rajagopalachari,
Assistant Secretary,Board of Revenue(Excise).

To

W.R.S. Sathianathan Esq.,I.C.S.,
Member,Board of Revenue and Commissioner of Commercial Taxes.

Reference:-

With reference to the Government Memorandum cited, the Board submits to Government a copy of the letter cited received from the Collector,Bellary in the matter. The Board agrees with the views of the Collector,Bellary that the Sandur Opium Act VI of 1937 may be repealed and the Opium Act 1878 may be brought into force from 1-10-49. The Dangerous Drugs Act 1930 may also be extended to Sandur from 1-10-49.

As regards the introduction of Prohibition in Sandur,the Board submits that it may be introduced from 1-4-1950. In this connection it invites the attention of the Government to its report in R.226-Abk/49,dated 5-2-49. As already reported, the arrack supply contractor may have to be compensated if Prohibition is extended to Sandur State before 18-10-1951, the date of expiry of the present contract.

Rajagopalachari
Assistant Secretary.

To the Secretary to Government,Revenue Department (with an enclosure)
R.P.N.12/10.

Copy of Bellary Collector's letter Ref.C.No.7194/49-S1,dated 20-9-49.

Sub:-Sandur State-Merger-Taking over the administration and extension of laws-report submitted-

Ref:-Board's Ref.No.L.CR.23532-Abk/49-XA2,d/1-9-49.

The Sandur Opium Act VI of 1937 is a parallel act to the Indian Opium Act of 1878. There are no parallel Acts in Sandur to the Madras Prohibition Act 1937 and the Dangerous Drugs Act 1930. No modifications to the above acts to suit the conditions in Sandur are necessary. The Indian Opium Act of 1878 may be extended to Sandur after repealing the corresponding Sandur Opium Act VI of 1937. The Dangerous Drugs Act 1930 may be extended to Sandur..

As regards the introduction of Madras Prohibition Act of 1937, I submit that the erstwhile state of Sandur entered into an agreement with the distillery contractor on 19-10-46 agreeing to purchase 500 gallons of arrack of 35 U.P.per month. The agreement also provided for payment of compensation to the contractor according to the terms contained in clause 6 of the agreement. A copy of the agreement is enclosed for perusal. The Sarkar Vakil,Sandur,whom I consulted, is of the opinion that the agreement entered into by the late Sandur Government should be terminated before introducing the Madras Prohibition Act. A huge sum by way of compensation will have to be paid to the distiller, as the agreement is valid upto 18-10-51. I submit that legal opinion may be taken in the matter, Whether the Prohibition Act can be brought into force until the agreement is terminated.

If it is possible to extend the Madras Prohibition Act with effect from 1-10-49, this may be done. The other two Acts referred to above may be brought into force with effect from 1-10-49.

Incidentally, it may be recalled that the question of paying compensation for the temporary closure of the shops for 5 months is engaging the attention of the Government. Attention is invited to this office D.O.No.12592/48 CC dated 9-3-49 to the Chief Secretary to Government and Government memo No.45034 D/49-2,Revenue Department dated 2-9-49 (copies enclosed).

MEMORANDUM OF AGREEMENT.

This Memorandum of Agreement made this nineteenth day of October 1946 between the Government of Sandur State (hereinafter called the State) on the one part and Moola Lakshmi Narayanaswami son of Moola Venkatarangiah,Hindu,residing at Tadapatri,Anantapur district refer to herein as the supplier of the other part;

Whereas the supplier has undertaken to establish at Sandur a distillery for the manufacture of country spirits and supply the same to the State, it is hereby agreed to as follows:

1, The State has not under immediate contemplation and introduction of prohibition in the State and will not also introduce such prohibition at their own initiative during the period of these presents.

2. The supplier shall within a period of one month from the date of execution of this agreement, establish a distillery completing the construction of necessary buildings and erection of the plant.

3. The State shall issue a licence for the establishment of a distillery in the State according to the rules in force in the State govering issue of such licenses. The supplier shall be bound by such rules and amendments or alterations made thereto from time to time.

4.The State agrees to purchase from the distillery of the supplier not less than 500 gallons of arrack of 35 U.P.per month.

5.This contract will be in force for a period of 5 years from the date of this agreement.

6.If for any reason the State does not purchase the full quantity of 500 gallons of arrack of 35 U.P.in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the State.

7.The State will afford all reasonable facilities, if needed to the supplier for getting the raw materials such as jaggery, ammonia, sulphuric acid and firewood for the purposes of distillation from outside the state.

8.The state hereby agrees to pay the cost of liquor to the credit of the account of the supplier with the Central Bank of India Ltd.,at Tadapatri within a week from the date of which the liquor is purchased and accounted for and the bill sent to the State authorities.

9.A suitable plot for the construction of the distillery and its allied buildings will be given on a nominal rent of Rs.10/- per annum per acre, if such land as is selected by the supplier is not at the time in actual possession of the Government. It is also agreed that the electric line posts shall be extended to the distillery building at the cost of the State.

10.The state shall supply casks for filling the liquor at its own cost at the distillery.

11.The State shall see that due justice,safety and cordial relationship to the supplier's legal representatives are extended during the tenure of their office in the State.

12.The ~~price~~ rate at which the country spirit is supplied by the supplier to the State shall be Rs.5/- (Rupees five) per gallon of arrack of 35 U.P.and the delivery shall be at the distillery, provided that, if in the event of the State in a position to purchase arrack in excess of 1500 gallons a month, it shall be open for both the parties to reconsider the rate.

13.The construction of necessary buildings and the erection of the plant for the proper working of the distillery shall be carried out at the cost of the supplier.

14.The supplier shall supply every month 500 gallons of arrack of 35 U.P.or more as and when requisitioned under the same conditions set out above. In case of default on the part of the supplier to supply the minimum quantity of 500 gallons agreed upon, he shall be liable to compensate the State in respect of the deficiency at the rate of Rs.15/- a gallon.

15.For the fulfilment of this agreed so far as the starting of the distillery is concerned, immediately after the execution of this agreement, the supplier shall deposit with the state a sum of Rs.500/- (Rupees five hundred only) as earnest money which shall be returned to him immediately after the starting of the distillery as per terms of this agreement and that such amount not exceeding the deposit shall be at the disposal of the Government for the failure on the part of the supplier to start the distillery as above but not on account of the circumstances that are beyond his control.

16.The supplier shall pay to the Government the local rates and taxes as per laws in force in state as on the date of signing this agreement viz.

(1)Income tax as per Madras Income Tax (Amendment) Act, 42, (Act VIII of 1942)

(2)Mohtaraf tax as per rules issued under Notification No.17 dated 12th November 1939 of the Department of Law and Order as revised by G.O.Notification No.KA103(HZ)43 dated 1st April 1943.

(3)Distillery licence fee of Rs.50/- per annum.

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17.At the close of the period of the contract,provided that there are no state dues existing at that time.against the supplier,will be at liberty to remove all materials, machinery etc.,which are his property and not otherwise.

18.If however during the period of the contract or at the end thereof the supplier desires to sell or transfer his interest in the business or the buildings or other properties thereto, the State shall have the prior right of purchase.

19.All facilities will be granted to Government Excise officers to inspect the distillery at all times.

20.The supplier shall make proper arrangements for the necessary watch and war at the distillery at his own cost.

21 In witness whereof the parties hereto have set their hands and seals this day and year first above written.

Signed sealed and delivered by the Chief Assistant to the Mantri Mandal on behalf of the Sandur State as authorised by the Government in the presence of

1.Sd.T.S.Krishnaswami,Chief Asst.to Mantri Mandal.
2.Sd.Kasimallisab (in Kanarese)
3.Sd.Muppadasetti Subbanna (in Kanarese)

Signed,sealed and delivered by the said M.L.Narayanaswamy in the presence of:

Sd.M.L.Narayanaswamy

1.Sd.K.V.Narasimhachar
2.Sd.M.S.Honwad

--

Copy of D.O.Secret Rc.No.12592/49 C.C.,dated 9-3-49 to the Chief Secretary to the Government of Madras.

Sub:-States-Sandur State-Excise administration-compensation for the distiller-orders-requested-

Ref:-Your Secret D.O.No.S/4382/48,d/30-11-48.

--

I enclose herewith a copy of the final report received from the Special Officer,Sandur,on the above subject together with copies of the petitions from the distiller.

In this connection,I invite your attention to clause 6 of the memorandum of agreement entered into between the Sandur State and the distiller (a copy of which has already been submitted to you with this office R.C.49/48 CC,dated 21-8-49).

It was agreed that if for any reason the State does not purchase the full quantity of 500 gallons of arrack in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons.

It seems to me that inspite of the legal advice communicated with your D.O.cited, if a special penalty clause for non-fulfilment of the contract has been incorporated in the contract deed, equity atleast demands that it should be observed. In this particular case, Mr.Anantaraman has himself recorded a statement from the distillery, copy enclosed, to the effect that the cost of each gallon works out to Rs.4-4-0 approximately. In my opinion, Government should compensate the contractor according to the terms of the penalty clause and not take refuge behind any legal technicalities. If the position had been reversed and the Government were suing the distiller for non-fulfilment of the contract, I am sure that they would claim at the penal rate of Rs.15 per gallon as laid down in clause 14 of the agreement.

The distillery was not ordered to be closed; but the arr- depot was sealed and steps were taken to see that no arrac-

issued. In effect the steps taken were tantamount to ordering the closure of the distillery.

I agree that the closure of the arrack shops of the State on security grounds cannot be considered an act of state and if equity is taken to consideration it certainly cannot be so regarded.

I therefore feel that an equitable compensation should be paid to the distiller inspite of the legal advice. At the rate of Rs.4-4-0 per gallon, the compensation works out to Rs.10,625 for 5 months at 5 hundred gallons for each month.

I request early orders whether this amount can be paid.

--

Copy of Govt.Memo.No.45034 D/49-2,Rev.Dept.,d/2-9-49.

Sub:-Prohibition-States-Sandur-Distillery-closure of payment of compensation.

Ref:-From the Collr.of Bellary,Rc.No.12592/48-G1,d/30-7-49 addressed to the Chief Secy.to Govt.

--

The Collector of Bellary is informed that it is proposed to refer the matter to the Advocate General for opinion. A decision in the matter will be communicated soon after the receipt of his reply.

V.Narasinga Rao,
Asst.Secy.to Govt.

/True copies/

R.P.N.12/10.

56

Govt.
Copy of Memo. No.31296 A/49-2 dated 6-7-49.

--

States -Sandur - Merger - Extension of laws.

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Consequent on the merger of the Sandur State with the Indian Union with effect from 1-4-49, it has been decided to extend all Acts and Regulations etc. in force in this Province to the merged area of Sandur.

The Board of Revenue
The Inspector General of Registration is requested to examine whether any modifications are necessary to the Acts and Regulations mentioned in the Annexure and to suggest a suitable date from which the Acts may be extended.

p57 supra

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91

Annexure

1. The Madras Prohibition Act, 1937.
2. The Dangerous Drugs Act, 1930.
3. The Opium Act, 1878.

States - Sandur - Merger - Application of Provincial and central laws.

58

Extract from Note File.

Plants Ref:- From Bd of Rev (Case) Ref CR no 23532 H+L / 49 dt 2 & 4.10.49.

XX XX XX

2. The Board's report relates to the extension of the Opium Act and Dangerous Drugs Act to Sandur. A copy of the Board's report together with a copy of Govt. memo. at pp 1-7 C.F. may be given to 'D' section for necessary action.

XX XX XX

P.A.
17-10-49.

ADDITIONAL ASST. SECRETARY TO GOVERNMENT
19 OCT
REVENUE DEPARTMENT

Supdt (Rev A)
19/10/49

(Action vide pp 51-58 above has been taken. One separate note kept in file below.)

59

Rc.NO.12592/48.S.1. Collector's office, Bellary,
Dated 9.12.1949

PERSONAL ASST. SECRETARY TO BOARD OF REVENUE
13 DEC
742810
REVENUE DEPARTMENT

From
Sri N.V.Suguvanam, B.A.,
Collector, Bellary.

To
The Secretary to Government,
Revenue Department,
Fort St.George, Madras.

D2
16/12/49

Sir,

Excise --Gandur--closure of distillery--payment of compensation.

--

REF:Government memorandum No.18726/D. 48.11. dated 2.9.1949.

--

Rp 3435 and D

The distiller discontinued manufacture of arrack on his own account from 29.7.1948 and the Government did not purchase the stipulated quantity of arrack from the month of August 1948 to December 1948. The specified quantity of arrack was purchased from him during July 1948 and also in January 1949 after 26-1-1949. Hence no compensation is payable to him for the months of July 48 and January 49. So, compensation for the five months August 48 to December 48 (1.8.48 to 31.12.1948) is payable to him, for breach of conditions of the agreement.

Indidentlly I submit that apart from paying compensation to the distiller the question of termination of the agreement will be necessary for the introduction of prohibition in Gandur Area. This question may also be examined from a legal point of view.

Sd.N.V.Suguvanam,
Collector.

By order

Kandaswamy
For Collector 12/12/49
Huzur Secretary.

v. .r.11.12. KR 11/12

To HJ

Rev Deptt.

Please see the letters from the Collector of Bellary at pp 1-2 ante. The main file on the subject has been circulated to HM (Rohini), HM (Fin.) HM (E&L) and HPer on 9.12.89. Its return may be awaited before any action is taken on pp 1-2 ante.

Rc.No.11476/49.S.1. Collector's office, Bellary,
Dated 9.12.1949.

60

From
Sri N.V.Suguvanam, B.A.,
Collector, Bellary.

To
The Secretary to the Board of
Revenue (Excise), Chepauk, Madras.

ADDITIONAL ASST SECRETARY TO GOVT
742-91
15 DEC
REVENUE DEPARTMENT

Sir,

Excise--Sandur--Grant of licence to the Distillery.

REF:Government Memorandum No.16726/48.151 dated 27.10.1949.

Under the Mysore Excise Act 1901 which is in force in Sandur a distiller has to obtain a licence. There has however not been any difficulty so far, for the present administration, in enforcing the provisions of the Act, due to the distillery being allowed to manufacture arrack without any licence. However it would be better if a formal licence is issued after collecting the prescribed fee of Rs.50/-

A copy of the Excise Regulation V of 1901 is herewith submitted. As it is the only copy available it may kindly be returned when it is no longer required.

For Collector.

Copy submitted to the Secretary to Government, Revenue Department direct.

V.R.R. 11.12.

By Air mail

Rly Br mail 28/12/49

61 Revenue Dptt

Letter No. 18726 D/48-20 S dt 28-12-49

To The Deputy Secretary to the Govt. of India,
Ministry of States.
New Delhi.

* Encl - Copy of D/Sec. W.E. 30.12.49

Sir

I am directed to refer to the Sandur State as a distillery in security measure - Compensation claimed by the distiller.

p 59 of 88 Your letter No. P. 49-Econ/49 dt 9.7.49 to the Chief Secy. to the Govt.

I am directed to invite your attention to the letter quoted above and to state that the Advocate General, Madras, who was consulted in the matter is of the view that the Sandur distiller is entitled only for compensation at Rs 375 for 500 gallons per month for the period during which the distillery was closed. A copy of his opinion is enclosed herewith. This Govt. consider that it will be best to take action in accordance with the opinion of the Advocate General.

Rs 375 represents the actual loss to the contractor

I am directed to enquire whether the Govt. of India have any objection to action being taken as mentioned above. A very urgent reply may kindly be sent in the matter.

Y. F.

Copy of the Opn of Adv (Encl) 9.12.49

9.12.49

Pub (rel)
Ms. No. 50/50-I
9-1-54

62

B. I. Cable **INDIAN POSTS AND TELEGRAPHS DEPARTMENT.** No.

Recd. at H. M.
From
By

Sent at H. M.
To
By

Office Stamp

0 R P NEW DELHI 7 STE 46 CHIEFSEC MADRAS ==

17- ECON REFERENCE REVENUE DEPARTMENT LETTER 18726

D /48-20 DECEMBER 28 (.) SANDUR DISTILLERY (.) YOUR PROPOSAL

ACCEPTED (.) PLEASE AUTHORISE PAYMENT OF COMPENSATION TO DISTILLER

ACCORDINGLY (.) AMOUNT DEBITABLE TO SANDUR STATES PORTION OF THE

COLLECTIVE ACCOUNT == STATESIND =

Rev. No.

Parker Press, Madras—15-4-49—11,500 Bks.

Telegram No. 17 -Ecm Dated 7th January, 1950.

From:- Statesind, New Delhi.

To - Chiefsec, Madras.

REFERENCE REVENUE DEPARTMENT LETTER 18726 D/48 20 DECEMBER 28 (.) SANDUR DISTILLERY (.) YOUR PROPOSAL ACCEPTED (.) PLEASE AUTHORISE PAYMENT OF COMPENSATION TO DISTILLER ACCORDINGLY (:) AMOUNT DEBITABLE TO SANDUR STATE'S PORTION OF THE COLLECTIVE ACCOUNT

Copy forwarded by post.

Assistant Secretary
to the Government of India.

MINISTRY OF STATES
New Delhi.
The 9th January, 1950.

Rev.Deptt.

69

SUMMARISING NOTE.

Prohibition - Sandur - Extension of Prohibition from 1-4-1950 ~~& Payment to the distillery~~ of compensation to the distillery - contractor ~~and expenditure on staff~~ - ~~Regarding~~.

~~The Government~~

The question of introducing Prohibition in Sandur area has been under the consideration of the Govt. since the State merged with the Indian Union. The question has now become one of urgent necessity in view of the fact that Sandur now forms part of Madras. The Board of Revenue (Exc.) has ~~xxxxx~~ recommended the extension of Prohibition to Sandur from 1-4-1950. The Board's recommendation has to be accepted as a small wet area in the centre of a dry district would create many difficulties in enforcing Prohibition in the ~~xx~~ surrounding area. Therefore it is proposed to issue orders to extend Prohibition to Sandur from 1-4-1950

2. Before the merger of the Sandur State with this State, the Sandur Durbar had entered into an agreement with one Sri Moola Lakshminarayanaswami for the establishment of a distillery at Sandur for the manufacture of arrack. The State has to purchase 500 gallons of arrack every month according to clause 6 of the agreement with the contractor. The agreement is to remain in force for a period of 5 years from 19-10-1946. The administration of Sandur State was taken over by an officer of this Govt. on 29-7-49 A.N. As a security measure the Government arrack depot in Sandur was sealed and no arrack was issued to the shops for public consumption from 1-8-1948 to 31-12-1948. The distillery contractor has claimed compensation for the period no ~~xx~~ arrack was purchased from him as per the agreement. The Advocate-General who was consulted as to the amount of compensation equivalent to his loss of profits viz. 12 as. per gallon which works out to an amount of Rs.375/- per month for the period when no arrack was purchased in 1948 when the distillery was closed and for the period from 1-4-1950 to 18-10-1951 when the agreement with

65

the contractor expires on account of the ~~xxxxxxxxxx~~ extension of Prohibition in Sandur, ~~which necessitates the closure of the distillery from 1-4-1950~~. The amount of compensation for the period from 1-8-1948 to 31-12-1948 comes to Rs.1,875 and that for the period from 1-4-1950 to ~~xx-xx-xxxx~~ 18-10-1951 comes to Rs.6,968 roundly. Hence a total sum of Rs,8,843 will have to be paid to the distillery contractor.

3. In view of the urgency of the matter and as orders will have to issue in sufficient time to enable the Board to arrange for the enforcement of Prohibition in Sandur from 1-4-1950 after x terminating the contract with the present distiller there, the connected file was circulated to H,M.(Prohn.), H.M.(E. & L.), H.M.(Fin.) and H.C.M. and orders obtained on the proposals referred to in paras 1 and 2 above. The /Finance Department have also agreed that orders may issue immediately to the Board of Revenue in the matter without further circulation. Orders are being issued accordingly. This summarising ~~xxxx~~ note may therefore be circulated to the other Hon'ble Ministers who have not seen the case. A copy may also be circulated to H.E. the Governor.

f. 33 ng

A on f 36 ng

28/2/50 (50) V. K. Rao 28-2-50

Rapid Cy Sf in Nos f 38 ng

27.2.50

6.3.50

To H.M.s other than H.M.(Prohn.), H.M.(E.&L.), H.M.(Fin.) and H.C.M.
Copy to the P.S.G.

5 scs

6/3/50

66

Read:- ~~Para 2 of Refce~~. From the Bd. of Rev.(Exc.) C.R. ~~-~~ ~~xx~~No.23532 Abk/49 XA2 dated 11-10-49.
~~Para 2 of~~ Memo. No.2110-D/50-2 dated 19-1-50.
From the Bd. of Rev.(Exc.) C.R.No.23532 Abk/49XA2 dated 25-1-1950.

G.O. Ms. No. 594 D/3/3/50

The Government direct that Prohibition should be introduced in Sandur with effect from 1-4-1950. The notification appended to this order will be published in the Fort St.George Gazette. 2/ The Bd. of Rev.(Exc.) is requested to inform the Sandur Distiller immediately that Prohibition will be introduced in Sandur with effect from 1-4-1950 and that a compensation of Rs.6,968 (Rupees six thousand, nine hundred and sixty eight only) will be paid to him for the period from 1-4-1950 to 18-10-1951 from the date of introduction of Prohibition to the date on which the present agreement with the distillery contractor expires.

3. The Government sanction the payment of a compensation (at the rate of Rs.375 for 500 gallons per month) of Rs.1,875 (Rupees one thousand, eight hundred and seventy five only) for the period from 1-8-1948 to 31-12-1948 when no arrack was purchased from the distillery as a security measure and a compensation of Rs.6,968 (Rupees six thousand, nine hundred and sixty eight only) for the period from 1-4-1950 to 18-10-1951 when the contract with the distiller expires. The above amounts should be paid to the contractor as ~~early~~ early as possible during 1950-51. ~~The expdx~~ The expenditure should be debited to '8. ~~Provincial~~ Excise- e. Compensations - A. Indian States and other Governments.'

The Board is requested to apply for necessary funds in due course. The A.G. is requested to admit the expenditure in audit pending provision of funds.

4. The Board is informed that the Govt. do not consider it necessary to prescribe a licence as suggested in its Refce. last read above, for the short period till 1-4-1950 when Prohibition will come into force.

5. The Board of Revenue is requested to submit necessary

(P.T.O.)

proposals at once for the sanction of ~~nococsary~~ extra enforcement staff, ~~in~~ if any, considered necessary consequent on the decision ~~connection with the~~ extension of Prohibition to Sandur from 1-4-1950. The Board is informed that minimum staff required should be applied for in consonance with economy and efficiency.

APPENDIX.

Notification.

In exercise of the powers conferred by section 1(3)(b)(ii) of the Madras Prohibition Act, 1937 (Madras Act X 1937), His Excellency the Governor of Madras hereby directs that all the provisions of the said Act, except sections 1, 3 and 6 which have already come into force, shall come into force in Sandur in the Bellary District with effect on and from the 1st April 1950.

the independent Sub-taluk of

1) To the Bd. of Rev. (Exc.)
2) I.G. of Police.
3) S.G.P. for publn. of the notification i the E.S.G.Gazette immediately and fa issue of necessary c.s. to the Act ar rules.
4) A.G. thro' Finance.
5) All Collectors.
6) To All Deptts of th Sectt. except Rev.

S/4387/48.

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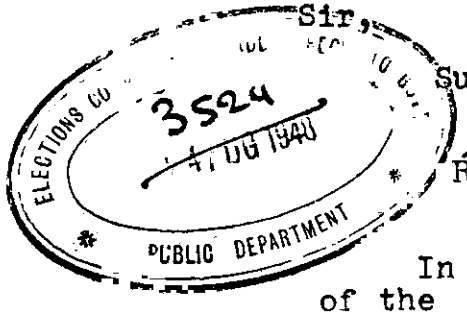
SECRET.
Ref.C.No.49/48 C.C. Dated 21-8-48.
From

K.N.ANANTARAMAN ESQ.,I.C.S.,
COLLECTOR.BELLARY.

TO

THE CHIEF SECRETARY TO GOVERNMENT
FORT ST.GEORGE,MADRAS.

Sir,



Sub:- SANDUR STATE- Excise and Arrack Control-
Functioning of depots.

Ref:- My Secret reference 49/48 Spl.dated 2-8-48.

===

In my above reference I have reported that in view of the security situation, I have ordered the closure of the distillery for some days.

2 The Special Officer in charge of Administration of Sandur to-day reports that the First Member had a talk with him on 18-7-48 and told him that the Distillery has a stock of 400 gallons of arrack, that it has a contract agreement with the State, and that as the distillery has been ordered to be closed, this would indicate a contravention of the agreement between the State and the Distillery. He also represented that a thousand rupees per day was being lost to the State by the blocking of this business.

3 I request that instructions may be issued whether the distillery may be ordered to be closed until the question of final merger is settled or whether normal business may be resumed.

Collector.

BY AIR MAIL.

Public Department.

No. S/4382-1/48 Dated, 7/9/48

To:- The Secy. to the Govt. of India, Ministry of States, New Delhi.

Sir,

States - Sandur State - Closing of distillery.

I am to say that the Collr. of Bellary has ordered the closure of the distillery in the State as a security measure. The Collr. now reports that the Special Officer in charge of the administration has informed him that he had been informed by the first Member of the State that the distillery has a stock of 400 gallons of arrack, that it has a contract agreement with the State, and that closing of the distillery is a contravention of the agreement. He also represented that a thousand rupees per day was being lost to the State by the closure. The Govt. of Madras presume that the question of merger has not yet been

TO

been settled. They, therefore, request urgent instructions whether the distillery may remain closed until the question of merger is settled or whether normal business may be resumed.

5/9/48

7/9/48

7.9.48

Issued 9/9

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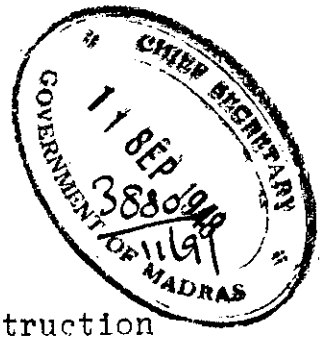
Secret. R.c.49/48 C.C. Dated 9th Septr. 1948



From: K.N. Anantaraman Esq., I.C.S.,
District Magistrate, Bellary

To
The Chief Secretary to Government,
Fort St. George, Madras

Sir,

Sub: SANDUR STATE - Distillery - Destruction of four barrels of arrack and closure of distillery - Orders requested.

Ref: 1. My D.O. R.c.49/48 dated 2.8.48
2. My secret letter R.c.49/48 dated 21.8.48

I invite your attention to the above references and request that orders i) ratifying my action in having ordered the destruction of the four barrels of liquor in the distillery and 2) regarding the closure of distillery untilfurther orders, may kindly be communicated to me.

In this connection, I am

am enclosing a copy of the report dated 5.9.48 received from the Special Officer in charge of the administration of Sandur.

Dt. Magistrate, Bellary
Camp: Hospet.

Public (Pol) Dept

(G) W. No. 3524-1d25 8/48

Thro' Pub. (S.C.)

Public (S.C.) Dept.
12.9.48.
12.9.48

Copy of letter No.Nil dated 5th September 1948 from the Spl.Officer, Sandur to the Collector, Bellary.

--

Sub:- Sandur State- Excise Administration.

Ref:- C.R.No.25771/Abk.dated 6-8-48 from the Board of Revenue (Excise) Madras communicated to the Spl.Officer Sandur in R.O.C. No.8124/48-B3, dated 16--8-48 of the Bellary Collector's Office.

--

I am enclosing herein copies of (1) the Sandur Excise Act of 1937 and (ii) the Memorandum of agreement between the Government of Sandur and Moola Lakshmi Narayana swamy of Tadapatri as desired in the communication referred to above.

The shops have remained closed from 30-7-48 due to non-supply from the Government Depot and this may mean that under clause 6 of the agreement the supplier will have to be compensated for not purchasing the agreed quantity from him. The period of contract is five years and the company will have to be compensated for a long time.

I am enclosing a short report regarding the working of the department.

Sd.T.K.Jayarama Iyer,
Spl.Officer, Sandur.

(True Copy).

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Report on the working of the Excise Department Sandur State.

Excise Administration is being carried on under Excise Act V of 1937 and the Mysore Excise Manual as applied to Sandur by G.O.C.No.J.268-C-XXIII-5M No.60(H.O.No.75/8) of 6-6-1945.

There are nine arrack shops and three ganja shops. Opium is not sold in the State. The shops that sell these are all run by the Excise Department.

Arrack is got from local Distillery under the terms of the agreement between the Government of Sandur and Mr. Moola Lakshminarayanaswamy of the local distillery.

Following are the relvant Budget Figures for 1948-48.

	RECEIPTS.		EXPENDITURE.	
	Estimates.	Actuals.	Estimates.	Actuals.
Arrack	Rs 3,56,750/-	Rs.90,086-14-0	Rs.1,30,784/-	33,094-12-4
Ganja	Rs 8,000/-	3,695-0- 0	4,630-0-0	1,811- 4-0
Misc.	Rs. 100/-	2-8- 0	...	..
Estt.	Rs. Nil	Nil	Rs. 2,504-0-0	Rs. 209-0- 0
Total.	3,64,850/-	Rs.93,784-6-0	Rs.1,37,918-0-0	Rs. 35,175-0-4

Sd.T.K.Jayarama Iyer,
Spl.Officer, Sandur.

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Memorandum of Agreement.

THIS MEMORANDUM of Agreement made this nineteenth day of October 1946 between the Government of Sandur State (hereinafter called the State) on the one part and Moola Lakshmi Narayanaswami son of Moola Venkatarangiah, Hindu, residing at Tadapatri, Anantapur district referred to herein as the supplier of the other part:

WHEREAS the supplier has undertaken to establish at Sandur a distillery for the manufacture of country spirits and supply the same to the State, it is hereby agreed to as follows:-

1. The State has not under immediate contemplation and introduction of prohibition in the State and will not also introduce such prohibition at their own initiative during the period of these presents.

2. The supplier shall within a period of one month from the date of execution of this agreement, establish a distillery completing the construction of necessary buildings and erection of the plant.

3. The State shall issue a license for the establishment of a distillery in the State according to the rules in force in the State governing issue of such licenses. The supplier shall be bound by such rules and amendments or alterations made thereto from time to time.

4. The State agrees to purchase from the distillery of the supplier not less than 500 gallons of arrack of 35 U.P. per month.

5. This contract will be in force for a period of 5 years from the date of this agreement.

6. If for any reason the State does not purchase the full quantity of 500 gallons of arrack of 35 U.P. in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the State.

7. The State will afford all reasonable facilities, if needed to the supplier for getting the raw materials such as jaggery, ammonia, sulphuric acid and firewood for the purposes of distillation from outside the state.

8. The State hereby agrees to pay the cost of liquor to the credit of the account of the supplier with the Central Bank of India Ltd., at Tadapatri within a week from the date on which the liquor is purchased and accounted for and the bill sent to the State authorities.

9. A suitable plot for the construction of the distillery and its allied buildings will be given on a nominal rent of Rs.10/- per annum per acre, if such land as is selected by the supplier is not at the time in actual possession of the Government. It is also agreed that the electric line posts shall be extended to the distillery building at the cost of the State.

10. The State shall supply casks for filling the liquor at its own cost at the distillery.

11. The State shall see that due justice, safety and cordial relationship to the supplier's legal representatives are extended during the tenure of their office in the State.

12. The rate at which the country spirit is supplied by the supplier to the State shall be Rs.5/- (Rupees five) per gallon of arrack of 35 U.P. and the delivery shall be at the distillery, provided that, if in the event of the State in a

25

in a position to purchase arrack in excess of 1500 gallons a month, it shall be open for both the parties to reconsider the rate.

13. The construction of necessary buildings and there erection of the plant for the proper working of the distilleyy shall be carried out at the cost of the supplier.

14. The supplier shall supply every month 500 gallons of arrack of 35 U.P. or more as and when requisitioned under the same conditions set out above. In case of default on the part of the supplier to supply the minimum quantity of 500 gallons agreed upon, he shall be liable to compensate the state in respect of the deficiency at the rate of Rs.15/- a gallon.

15. For the fulfilment of this agreement so far as the starting of the distillery is concerned, immediately after the execution of this agreement, the supplier shall deposit with the state a sum of Rs.500/- (Rupees Five Hundred only) as earnest money which shall be returned to him immediately after the starting of the distillery as per terms of this agreement and that such amount not exceeding the deposit shall be at the disposal of the Government for the failure on the part of the supplier to start the distillery as above but not on account of the circumstances that are beyond his control.

16. The supplier shall pay to the Government the local rates and taxes as per Laws in force in state as on the date of signing this agreement viz.,

17. 1. Income tax as per Sandur Income tax- (Amendment) Act, '42 (Act V III of 1942)
2. Mohtaraf tax as per Rules issued under Notification No.17 dated 12th November 1939 of the Department of Law and Order as revised by G.O.Notification No.KA.103(HL)-43 dated 1st April 1943.
3. Distillery licence fee of Rs.50/- per annum.

17. At the close of the period of the contract, provided that there are no state dues existing at that time against the Supplier, he will be at liberty to remove all materials, machinery etc, which are his property and not otherwsise.

18. If however during the period of the contract or at the end thereof the Supplier desires to sell or transfer his interest in the business or the buildings or other properties thereto, the State shall have the prior right of purchase.

19. All facilities will be granted to Government Excise Officers to inspect the distillery at all times.

20. The Supplier shall make proper arrangements for the necessary watch and war at the distillery at his own cost.

IN WITNESS whereof the parties hereto have set their Hands and seals this day and year first above written.

Signed, sealed and delivered by the Chief Assistant to the Mantri Mandal on behalf of the Sandur State as authorised by the Government in the presence of

1. Sd/-T.S.Krishnaswami
Chief Asst.to Mantri Mandal
2. Sd.Kasimallisab (in Kanarese)
3. Sd. Muppadasettisubbanna (in Kanarese)

Signed, sealed and delivered by the Sid M.L.Narayanaswamy in the presence of:-

Sd.M.L.Narayanaswamy

1. Sd.M.V.Narasimhachar.
2. Sd.M.S.Honwad.

5/5026/48

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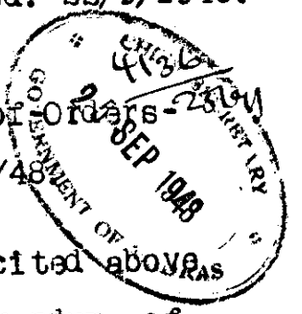
CONFIDENTIAL.

Bellary Collector's camp: Adoni,
Dated. 22/9/1948.



My dear Ramunni Menon,

Sub:-SANDUR STATE-Distillery-Closure of-Orders-Requested.
Ref:-My R.C.No.49/48 C.C. 2 dated 9/9/48

I invite your attention to the reference cited above wherein I have also enclosed a copy of the memorandum of agreement entered into between the Government of Sandur and a private arrack contractor, Moola Lakshmi Narayanaswami of Tadpatri. According to cl.4 to 6 of the above agreement, the State has to purchase a minimum quantity of 500 gallons of arrack every month and in case of failure to do so, the distiller has to be given a compensation equal to the cost of the quantity which was not purchased in any month.

From the date on which the State was taken over, I ordered the closure of the distillery in view of the conditions then existing in the State. Hence it is very likely that the contractor may claim compensation for the non-purchase of the minimum quantity during this period.

I ~~requ~~ therefore, request you to kindly see that necessary orders are passed in the matter of the permanent closure of the distillery. I also request for instructions, whether in case, the contractor claims compensation, for August and September, 1948, it may be paid to him. As I was instructed to see that dislocation of the administrative set up is kept up to the minimum, I have not ordered the cancellation of the agreement entered into by the State.

Yours sincerely,
K. Ananthasayanam
22/9

To

K.Ramunni Menon, Esq., BAR-AT-LAW-
C.I.E., I.C.S.,
Chief Secretary to Government,
Fort St. George, Madras.

By Air Mail Tuesday T 77

Public Department.

No. S/4382-3/48 Dated, 4/10/48.

To:- The Secy. to the Govt. of India, Ministry of States, New Delhi.

Sir,

States - Sandur State - Closing of Distillery - Ref. this Govt's letter No. S/4382-1/48 dated 7th Sept., 1948.

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pp 3-4?

pp. 9-10?

I am to enclose herewith a copy of the memorandum of agreement entered into between the Govt. of Sandur State and a private arrack contractor, Moola Lakshmi Narayanaswami of Tadpatri. According to clauses 4 to 6 of the agreement, the State has to purchase a minimum quantity of 500 gallons of arrack every month, failing which, the distiller has to be paid compensation equal to the cost of the quantity by which the purchase falls short of 500 gallons ~~has not purchased~~ in any month. As already reported in the ref. cited above, the Collr. of B

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of Bellary ordered the closure of the distillery as a security measure on the day on which the administration of the State was taken over. It is therefore probable that the contractor may claim compensation for the non-purchase of the minimum quantity of arrack during the months of August and Sept., 1948. In the above circumstances, I am to request that early orders may kindly be passed on the letter cited above. I am also to enquire whether the contractor may be paid compensation, if he claims it.

29/9/48.

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Issued
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11

Public Department.

D.O.No. S/4382-2/48 Dated, 4/10/48.

My dear Anantaraman,

States - Sandur State - Closing of Distillery - Ref. correspondence ending with your D.O. dated 22nd Sept., 1948.

P.11c/

I am to say that the matter has been referred to the Govt. of India for orders and a further communication will follow on receipt of their reply.

Yours sincerely,

K.N. Anantaraman Esq., ICS.,
D.M. of Bellary.

29/9/48.

1/10/48

1.10.48

Issued
6/x

BY AIR MAIL

No. D.6162-IB/48

GOVERNMENT OF INDIA

MINISTRY OF STATES

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S/S225/48

From

The Assistant Secretary to the Government of India, Ministry of States.

The Chief Secretary to the Government of Madras.

Dated New Delhi, the 4th October 1948.

Closing of the Sandur State Distillery.

Sir,

I am directed to refer to your letter No. S/4382-1/48 dated September 7, 1948 and to request that a copy of the contract agreement between the Sandur Durbar and the Distillery may kindly be forwarded to this Ministry.

Yours faithfully,

Assistant Secretary to the Government of India.

ANAND.

D.6768-13/48

GOVERNMENT OF INDIA

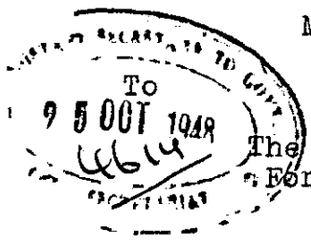
S/5466/48

MINISTRY OF STATES

From

The Deputy Secretary to the Government of India,

Ministry of States,



To

The Chief Secretary to the Government of Madras,
Fort St.George, Madras

Dated New Delhi the 23rd October 1948.

Subject:- States - Sandur State - Closing of Distillery -

....

Sir,

With reference to your letter no.S/4382-3/48, dated the 4th October 1948, I am directed to say that since the distillery was closed as a security measure no question of compensation can arise. The Government of India would however suggest that the Government of Madras might take the legal opinion on the subject and deal with any claims that may be raised by the contractor in accordance with such opinion.

2. As regards the continuance of the closure indefinitely however the matter stands on a different footing. Security reasons cannot be a valid plea in justification of such indefinite closure. Since however the Madras Government themselves appear to be agreeable to the re-opening of the distillery the Government of India are of the view that the distillery may be allowed to resume business. I am to add that the Ruler of Sandur has not yet executed any merger agreement. Its execution will however make no difference to the validity of a bona fide continuing contract such as the present one.

Yours faithfully,

C.Ganesan

(C.Ganesan)

Deputy Secretary to the Government of India

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Public Dept

D.O. No: S/4382-4/48 Dated 28/10/48

My dear Ananthanarayanan,

State-Sawdust-State-Closure of Distillery -: Ref: correspondence ending with my D.O. No. S/4382-2/48 dt 4/x/48.

I am to request you to report urgently who the customers of the distillery are, & how they dispose of their stocks of liquor.

Yours sincerely,

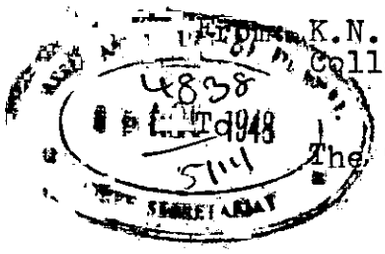
K.N. Ananthanarayanan
Esq., I.C.S.,
D.M., Bellary.

Issued 29/10/48

83 S/5652/48

R.c. 49/48 C.C. Dated 30.10.48

From K.N. Anantaraman Esq., I.C.S.,
Collector, Bellary



The Chief Secretary to Government,
Fort St. George,
M A D R A S

Sir,

Sub: STATES - Sandur State - Arrack distillery - purchase of arrack by the Government of Sandur - Discontinuance from 1.8.48 - claim for compensation from the distiller - Orders requested.

Ref: Your Confdl. D.O. No.S/4382-2/48 Public dept., dated 4.10.48

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fyc 15 ante

I enclose herewith a copy of the report R.c.No. 47/48-B(So)dated 24.10.48 from the Special Officer in charge of administration of Sandur stating that the distiller is claiming a compensation of Re.1,10,567/- for the discontinuance of the distillery and consequential violation of the agreement which the Sandur State Government entered into with him.

fyc: 25 infra

fy. 9-10 ante

I request that very early orders may be passed and communicated to me in the matter.

Collector, Bellary

R.c.No.47/48-B(S.ò) 84

Copy of letter/dated 24th October, 1948 from the Special Officer, Sandur to the Collector, Bellary

--

Sir,

Sub: Arrack - distillery - Purchase of arrack by the Government of Sandur - Discontinuance from 1.8.48 - Claim for compensation from the distiller - Report

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Ref: Letter No.Nil dated 12.10.48 from the Ex. distiller, Sandur

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The Ex. Distiller, Sandur is claiming a total compensation of Rs.1,10,567/- consequent on the discontinuance of purchase of arrack by the Government of Sandur. It consists of the following:

a. Compensation of Rs.96,500/- as the value of of 500 gallons of arrack at Rs. 2500/- per month for 3 years, 2 months and 18 days (being the unexpired portion of the agreed term of five years) basing his claim on condition 6 of the agreement. Only the amounts (Rs.5000/-) relating to August (relating to August) and September have fallen due and the rest have not fallen due.

page 9 ante

b. Compensation of Rs.2260/- being the value of 452 gallons of arrack sealed by me at Rs.5/- per gallon. The cost of this is already included in the monthly compensation amount under clause (a) above and hence a separate claim for it is not admissible.

c. Compensation of Rs.462-8-0 towards establishment charges and Rs.11,344-4-3, the cost of buildings and plant. This claim is not tenable as the Government of Sandur have not entered into any undertaking to indemnify with regard to these items. On the other hand it is clear from conditions 13 and 20 of the agreement (copy of which has already been sent to you) that the Government have no concern with regard to such charges.

page 10 ante

3. In view of this position, I request you to obtain definite and early orders from the Government and communicate them to me

Yours faithfully

Sd. T.K. Jayarama Iyer,
Special Officer i/c State Administration, Sandur.

True copy

Collector, Bellary

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Public Department.

D.O.No. S/4382-7/48 Dated, 30/11/48.

My dear Anantaraman,

States - Sandur State - Closure of distillery - Ref. your letter No. Rc.49/48 C.C. dated 30th Oct., 1948.

I am to say that the Govt. of India have intimated that since the distillery was closed as a security measure, no question of compensation can arise. They have however, suggested that this Govt. might take legal opinion on the subject and deal with any claims that may be raised by the contractor in accordance with such opinion. This opinion is accordingly as follows.

~~Acting on this advice, the Govt have taken legal opinion in the matter, the result of which is detailed below.~~

2. There is no provision in the agreement entered into between the State and the contractor enabling it to be terminated before the end of 5 years commencing from 19/10/1946. Clause 6 of the agreement specifically provides that if for any reason the State does not purchase the full quantity of 500 gallons of arrack in any month during the period of contract, compensation shall be payable. The claim under (a) in the letter of the Special Officer, Sandur, enclosed with your letter cited above, viz., the value of the arrack which the State was bound to purchase, must in any view of the matter, be appreciably cut down. Where a contract is broken, the person complaining of the breach is entitled only to the loss or damage caused to him by such breach. For this purpose, he may claim to be put in the position he would have occupied had the breach not occurred. In the present case, if the contract had not been broken, the State would have paid the distiller Rs. 5/- per gallon of arrack, but ~~then~~ the distiller was bound to manufacture the arrack and the cost of its production would

28 86

would have been borne entirely by him. Assuming, therefore, that he is entitled to damages, he will be entitled in respect of each gallon only to the difference between the price stipulated, viz., Rs. 5/-, and the cost of production per gallon.

As regards the claim under (b) in the Special Officer's letter, the Govt. have been advised that, if the statement made therein is correct, no claim for compensation can be entertained. Nor is the claim under (c) in the Special Officer's letter tenable for the reasons stated therein.

As regards the question whether Govt. are liable to pay compensation, xx the Govt. have been advised that "security measures" by themselves would not justify a breach of the contract unless they are of such a nature that they can be properly described xx to be Acts of State. The Govt. have no information/to show whether the security measures taken in the State may be properly xx said to ~~be long to~~ fall under that ~~character~~ category. I am, therefore, to request you to state urgently whether the security measures taken by you when the administration of the State was taken over, can be said to amount to Acts of State and, if so, to furnish full details in support of your view.

It is doubtful whether the closure ~~measures~~ ordered/taken in this case can be deemed to be an Act of State.

3. W.r.t. the question of the indefinite closure of the distillery, the Govt. of India are of the view that security reasons cannot be a valid plea in justification of such indefinite closure. They, xxx, therefore, consider that the distillery may be allowed to resume business. They add that, even though the Ruler of Sandur has not yet executed any merger agreement, its execution will make no difference to the validity of a bona fide continuing contract such as the present one. In these circumstances, the Govt. consider that the distillery may be allowed to resume its business until the Sandur

87

Sandur State is merged with this Province and the Prohibition Act extended to the State, when it should be closed.

Yours sincerely,

K.N. Anantaraman Esq., ICS
Collector of Bellary.

20/11/48.

22/11/48

27.11.48

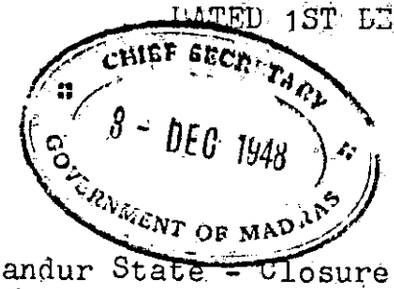
S/6054/48.

88

SECRET. D.O.

COLLECTOR'S OFFICE
B E L L A R Y
DATED 1ST DECEMBER 1948

R.C. 49/48-12 C.C.



DEAR MR. 127

Sub: STATES - Sandur State - Closure of distillery.

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p. 21 ante

Ref: Your Secret D.O. No.S.4382-4/48 D.28.10.48

The Excise Department of the Government of Sandur was the only customer of the Sandur distillery. The quantities taken from the distillery were supplied to the shops which were run by the Government.

All these shops have not been working since the date of taking over the administration of Sandur

I request that early orders may kindly be passed and communicated to me in the matter.

Yours sincerely

K.N. Anantaraman

(K.N. Anantaraman)
Collector.

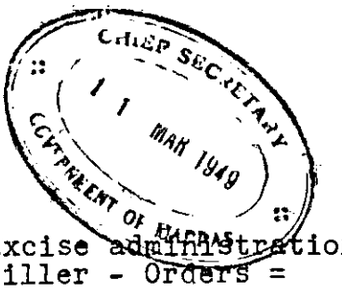
To

K. Ramunni Menon Esq., BAR - AT - LAW. & C.I.E., I.C.S,
CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS
FORT ST.GEORGE,
MADRAS.

S/1484/48.

SECRET.D.O. Bellary Collector's Camp: Yemmiganur
Dated 9th March 1949

R.C.No.12592/48 C.C.



Dear Mr. Ramunni Menon,

Sub: STATES - Sandur State - Excise administration - Compensation for the distiller - Orders = Requested.

Ref: Your Secret D.O. No.S/4382-7/48 dated 30.11.48

--

I enclose herewith a copy of the final report received from the Special Officer, Sandur, on the above subject together with copies of the petitions from the distiller.

2 In this connection, I invite your attention to clause 6 of the memorandum of agreement entered into between the Sandur State and the distiller(a copy of which has already been submitted to you with this office R.c49/48 CC dated 21.8.48).

3 It was agreed that if for any reason the State does not purchase the full quantity of 500 gallons of arrack in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons.

4 It seems to me that inspite of the legal advice communicated with your D.O. cited, if a special penalty clause for non-fulfilment of the contract has been incorporated in the contract deed, equity atleast demands that it should be observed. In this particular case, Mr. Anantaraman has himself recorded a statement from the distiller, copy enclosed, to the effect that the cost of each gallon works out to Rs.4/4/ approximately. In my opinion, Government should compensate the contractor according to the terms of the penalty clause and not take refuge behind any legal technicalities. If the

p.t.o

position had been reversed and the Government were suing the distiller for non fulfilment of the contract, I am sure that they would claim at the penal rate of Re.15/- per gallon as laid down in clause 14 of the agreement.

~~I agree that the closure of arrack shops of~~

5 The distillery was not ordered to be closed; but the arrack depot was sealed and steps were taken to see that no arrack was issued. In effect the steps taken were tantamount to ordering the closure of the distillery.

6 I agree (that) that the closure of the arrack shops of the state on security grounds cannot be considered an Act of State and if equity is taken into consideration, it certainly cannot be so regarded.

7 I therefore feel that an equitable compensation should be paid to the distiller inspite of the legal advice. At the rate of Re.4/4/- per gallon, the compensation works out to Rs.10,625/- for five months at five hundred gallons for each month.

2500 × 4¼
10000
1.25
125

8 I request early orders whether this amount can be paid.

Yours sincerely

(E.C. Allardice) 9.3.43

To

K. Ramunni Menon Esq., BAR-AT -LAW.,I.C.S.,
Chief Secretary to Government,
Fort St. George,
M A D R AS

9/3/43

Copy of R.C.No.47/48B (S.O.) dated 26.2.1949 from the Special Officer in charge of administration of Sandur to the Collector, Bellary.

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"Sir,

Sub: ARRACK DISTILLERY - Claim for compensation- Report submitted.

I submit herewith copies of the petitions dated 20.8.48, 24.8.48, 8.9.48, 17.9.48, 12.10.48, 10.11.48 and 8.2.49 put in by the arrack distiller of Sandur claiming compensation with the following remarks:

2. The state was taken over on 29.7.48, afternoon. As a security measure, the Government arrack depot was sealed and no arrack was issued to the shops for public consumption from 30.7.48. No orders were issued to the distiller from the present administration directing him to close the distillery, though I took precautions to see that the distiller did not trade in arrack secretly. I entered the distillery for the first time on 8.10.48 to inspect and verify the stock with reference to a petition alleging that the servants in the distillery were found drunk. Then I sealed the vat containing stock of arrack and not the distillery. The distiller was in full possession of the distillery and he was not in any way prevented from using the factory and its premises. The distiller discontinued manufacturing arrack on his own account from 29.7.48 for reasons best known to himself. As the distiller did not manufacture arrack during the month of August 1948 and onwards, the question of compensation does not arise at all. However he may base his claim for compensation on the plea that the Government did not purchase the available arrack and this has to be admitted in view of the fact that the Madras Government, who had been addressed by the Collector in this matter, enunciated their policy in Chief Secretary's D.O.S/4382-7/48 dated 30.11.48.

3. If, in view of the instructions issued by the Government in their D.O.No.+S/4382-7/48 dated 30.11.48, it is considered equitable to compensate the

p.t.o

ff.37-41 infra

distiller with reference clause 6 of the agreement, he may be paid only the difference between the priee per gallon stipulated in t'e agreement viz. Rs.5/- and the cost of production per gallon(Rs.4.4.0) on the minimum of 500 gallons per month. The distiller, Mr. Narayan swamy, has deposed before theCollector on 17.1.49, that the cost of manufacture of a gallon of a gallon works to about Rs.4.4.0. This is reasonable in view of the high prices of raw materials and is also acceptable. On the above basis, the amount of compensation works upto Rs.375/- per month. If the Government is pleased to order the payment of compensation to the distiller, he may be paid Rs.375/- per month from August 1948 to December 1948, which works to Rs.1875/-

Sd. T.K. Jayarama Iyer
Special Officer.

True copy

** *****

Letter dated 20th August 1948 from Mr.M.L.Narayanaswami, Distiller, Sandur, to the Secretary to theGovernment of Madras Revenue Department (Excise), Madras under copy to the Administrator,Sandur.

==

Sub:- Banganapalli State- Merger with the Madras Province - Closure of Arrakk Distillery - disposal of balance of arrack- Orders.

--

My letter dated 5-8-48.

===

I beg to invite a kind reference to my letter cited above and request the favour of early orders as I am kept in a mood of suspense and much loss in the absence of definite orders.

I may be permitted to state that the Distillery at Banganapalli is not functioning from April '48 and that the Board of Revenue (Excise) ordered me in their C.R.No.8483 dated 10-7-48 to remove liquor to Sandur State in virtue of the Bond executed by me with the Collector of Anantapur when my Distillery at Tadpatri was functioning, in as much as this Bond has not been withdrawn nor cancelled by me. Accordingly the balance of liquor was issued in 34 casks and taken to Panyam Station to put on rail to Yeswantnagar the nearest station to Sandur, but this consignment is still detained at Panyam station as per orders of the Board's C.R.No.8484 dated 31-7448 wherein they have ordered me to execute a fresh bond with theCollector of Kurnool and move the consignment to Sandur.

While this consignment of liquor is detained like this without reaching Sandur, the Sandur State administration is taken over by the Madras Government from 29-7-48. My agent from Sandur informs that all the arrack shops run by the State Government are closed and consequentely the stock in the Sandur Distillery is also locked up. So far, I have not received any communication from the Board of Revenue (Excise) Madras or from the Administra-tor of the Sandur State about the functioning of my Distillery.

Under these circumstances, I request the Secretary to kindly let me know if I have to execute a fresh bond with the Collector of Kurnool and move the liquor to Sandur and destroy it there in case prohibition is going to be introduced there also. In this connection, I beg to represent that I shall have to claim compensation on that liquor at the rate of Rs.5/- per bulk gallon of 35 U.P. and all other expenses that I have incurred so far and shall be incurring for the movement etc. of the same and other loss also which the Government have to pay me as compensation as per the agreement with the Sandur State Government. If the Government issue orders to the effect that the arrack now lying at Panyam has to be destroyed,I request the Secretary to order for the payment of compensation on the balance liquor left over at the time of closure of the Banaganapalli Distillery at Rs.4/- per bulk gallon as per agreement with the Banaganapalli State Government and others expenses so far incurred. In the light of the above facts and situation I beg to solicit the favour of definite and early orders in the matter.

Letter dated 24-8-48 from Mr. M.L.Narayanaswami, Distiller, Sandur , to the Special Officer,incharge of Sandur State Administration, Sandur.

***

I beg to bring the following for your kind notice and favourable consideration and orders:-

It is more than 25 days since the sale of arrack has been stopped. So far no peasons, as to this action , have been communicated to us. The closure of shops without giving sufficient time notice is in its

time notice is in itself a great blow on our business. Add to this, the silence creeping over this particular department for such a long time, as this, is most regrettable and the delay unbearable, the more so, when we seen that almost all other departments of the State Government have been functioning on their normal and usual way.

You will please appreciate when I beg to submit that the stoppage, without any notice and elucidation, has put us in a great loss not only in time and money but also by way of non-disposal of the stock and the wastage of raw-materials and labour as well. Our minimum consumption for this period would have been 650 or 700 gallons of arrack. That means in the normal running of our business,only this month, we have incurred a minimum loss of about Rs.3000/- to Rs.3500/- leaving beside labour and manufacturing expenses.

In an indefinite situation, such as of this now prevailing, only an our department, it would have been consistently better both for the State Government as well to us if the stock on hand had been released for sale and continued to function, as was the case with the other department of Sandur State, until a final and a more definite course is perused and declared, if any.

However, in the circumstances, I beg to request that, while appreciating our difficulties and losses, you will be kind enough to allow the normal working of ~~the~~ our distillery by ordering the release of our stock for sale through Government shops, as was hitherto been doing, with immediate effect.

Letter dated 8-9-48 from Mr. K.L.Narayanaswami, Distiller, Sandur ,to the Special Officer i/c Sandur State Administration.

Sub:- CLOSURE OF ARRACK.
Ref:- Our letter of 24-8-48.

***

I beg to submit that it is highly regrettable to note that no response has been forthcoming to my letter of 24-8-48 till now. In that, I have clearly explained our losses and difficulties that we are incurring by this stoppage of arrack sales without assigning any reasons whatsoever. For more than a month, we have been waiting here idly for favour of orders in this end. We have been put to in an indefinite position all the time, and are, therefore, not only loosing time but incurring loss day by day by this state of indefiniteness and also to the non-functioning of our distillery.

Thus, in the absence of any orders from you, we are unable to proceed further with regard to our claim of compensation and etc. or otherwise in this matter. Under such circumstances,I , now, most humbly and earnestly, request you please to pay me the amount of cost price at R .5/- (Five) per gallon (as per agreement) on the stock of arrack on hand, until we are informed of a definite action or arrangement that will be taken over by you.

Very early orders will be much appreciated in this end.

Thanking you,

=====

Letter dated 17th September 1948 from Mr.M.L.Narayanaswami Distiller,(Sandur) ,Tadpatri to the Special Officer incharge of State Administration,Sandur.

===

I am in receipt of your letter cited above and I learn that the orders of the Government may be awaited in the matter. In this connection, I am to state that though the administration of the State had been taken over by the Madras Government from 29th July '48, I have not so far received any communication from your office as regards the further existence of my distillery, and I am kept in a mood of suspense.

I request that early orders may kindly be communicated to me so that I can put forth my claims for compensation for the sudden closure of my distillery before the lapse of the contracted period as executed by me and the Sandur State Government.

Soliciting early reply.

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Letter dated 6-10-48 fromMr.M.L.Narayanaswami , Distiller, Sandur, to the Special Officer, incharge of Sandur State Administration.

Sub:- Arrack stock at Sandur Distillery- Disposal of Instructions - requested.

Further to my letters dated 24-8-48, I beg to submit that consequent to the stoppage of arrack sales with effect from 1-8-48, without giving any reasons, my distillery has had to be closed since that date. I have been waiting here idly in an indefinite position for more than two months now; and you will please appreciate the inconvenience and loss a businessmen like me has to bear through in such a long period. I have on hand at my distillery stock of 455.3 bulk gallons of 35.U.P. arrack, and due to non-disposal of same for such a long time, I am afraid,I have to loose heavily by way of wastages also.

As such , I now, request you, very earnestly, please to let me know as to how and when I should dispose of that stock.

Soliciting instructions in the matter and thanking you.

====

LETTER DATED 12th October 1948 fromMr.M.L.Narayanaswami, Distiller, (Sandur) Tadapatri to the Special Officer,in charge of Sandur State Administration, Sandur.

***

Sub:- Arrack Distillery - Closure of State Government arrack shops by the present administration- Distillery manufacture and supplies standstill- compensation claimed- Payment requested.

--

I am given to understand by my agent at Sandur that you have taken stock of arrack in my distillery and sealed the vessels containing arrack with your own seal. Although it is now early two and half months,I have not been informed definitely about the further functioning of my distillery inspite of my repeated reminders.

Since I am kept in dark and in great suspense without any orders, I feel constrained to put forth my claim for the payment of compensation in virture of the conditions 4,5,6 and 12 of the Memorandum of agreement executed by myself and the Sandur State Government on 19-10-46.

Inviting a kind reference to the said clauses of the agreement , I now claim Rs.96500/- rupees ninty six and five hundred as compensation under clause 4 of the agreement wherein the State agrees to purchase from the distillery supplier not less than 500 gallons of arrack of 35 U.P. per month at Re.5/- per bulk gallon. The amount claimed for is for the remaining period of 3 years, 2 months and 18 days since the Stage Government have not drawn supplies from 1-8-48.

In support of this, I can even invite your kind attention to clause 6 of the said agreement wherein it is agreed that " if for any reason the state does not purchase the full quantity of 5000 gallons of arrack of 35 U.P. in any month during the period of the contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the State".

As the State has failed to purchase theagreed full quantity of 500 gallons from 1-8-48, the State has to ievitably compensate me for the full quantity of 500 gallons per month for the rest of the contract period of 3 years, 2 months and 18 days.

Hence my claim for Re.96,500/- on this for 3 years 2 months and 18 days at R .5/- per gallon for 500 gallons of arrack per month.

I claim also Re.2260/- on the stock of 452 gallons.of arrack as verified and sealed by you on 8-10-48 at Re.5/- per gallon being the cost price.

I further claim the establishment charges for 2½ months from August 1948 Rs.462-8-0 and also Rs.11,344-4-3 being cost of building and machinery plant.

Thus my claim for Rs.1,10,566 -12-3 or Rs.1,10,567-0-0 only I request that early orders of payment may kindly be issued to me.

-x-

LETTER DATED 10th November 1948 from Mr.M.L.Narayanaswami, Ex- Distiller, Sandur to the Special Officer incharge of Sandur State Administration,Sandur.

Sub:- Arrack distillery-closure of State Government arrack shops by the present administration Distillery manufatture and supplies standstill Compensation claimed - Payment requested.

--

I invite a kind reference to my letter dated 12-10-48 in respect of my alaims for the compensation of my distillery at Sandur. I request that the matter may kindly be pushed on with due support and the payment be made at an early date.

/ True Copy/

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LETTER DATED 8th FEBRUARY 1949 FROM MR. M.L.NARAYANASWAMI DISTILLER AT SANDUR TADPATRI TO THE SPECIAL OFFICER i/c STATE ADMINISTRATION SANDUR.

-===

Sub:- My claim for compensation Re- Distillery and supply of arrack at Sandur.

***

From your letter dated 24-12-48, I understand that my claim for compenaation is under consideration.

In continuation of and without prejudice to my claim already made, I wish to state as follows:-

In as much as the work of the Distillery has been resumed as per your orders and the supply of arrack has been received for January 1949, my claim to compensation under cl.6 of the agreement between myself and the State, becoems payable upto 31-12-48. The period for which the distilleyy was closed and supplies not received was 5 months - August to December '48 (both days inclusive). The Distillery was closed and the stock was sealed under the orders from Government and I was intimated from time to time that I had to await further orders from the Government .The shops having been closed, the arrack was not received. For these reasons, I submit once again I am entitled to the compensation.

The amount I have to get for these 5 months is Rs. 12,500/- at Rs.2,500/- per month, being the cost of 500 gallons. This is an ascertained amount of compensation and as such I am entitled to this compensation.

Without prejudice to my claim for other items of compensation which are ascertainable, I request that this sum of ascertained compensation amounting to Rs.12,500/- be paid immediately, as further delay in the payment causes loss to me by way of interest.

/ True copy/-

===

98 49

Statement of Mr. Naryanaswamy before the Collector,Bellary on 17.1.49

I have entered into an agreement with Sandur State to supply arrack - 500 gallons minimum per month at Rs.5/- a gallon. It costs me about Rs.4.4.0 to manufacture a gallon of arrack.

Sd. M. Narayanaswami.

Sd. K.N.Anantaraman
17.1.49

Collector,Bellary

True copy

99

Public (Political) Department

Letter No. 1698/49-4 dated 3.6.49

To

The Secy. to the Govt. of India,
Ministry of States, New Delhi.

Sir,

Sub: States - Sandur - Distillery - Closure - Payment of compensation.

Ref: Correspondence resting with Govt. of India, Ministry of States, Letter No.D.6768-IB/48 dated 23-10-48.

I am directed to invite the attention of the Govt. of India to para/2 of their letter cited and to state that the distillery at Sandur has since been re-opened with effect-from January 1949.

2.The distiller, Sri M.L.Narayanasami, has submitted to this Govt. a representation claiming payment by way of compensation of a sum of Rs.12,500/-, for the period of 5 months from August to December 1948 during which the distillery was kept closed as the Govt. arrack depot was sealed and no arrack was issued to the shops for public consumption from 30-7-1948. Consequent on the closure of the Govt. arrack depot, as a security measure, no arrack was purchased by the State from the distiller as stipulated in clause 6 of the agreement entered into by the distiller with the Durbar. This clause reads as follows:

"If for any reason the State does not purchase the full quantity of 500 gallons of arrack of 35 U.P. in any month during the period of contract, the State shall compensate the supplier to the extent of the cost of the quantity by which it falls short of 500 gallons owing to such default on the part of the State."

3.The Govt.of India have suggested in para 1 of their letter-cited that though no question of compensation would arise as the distillery was closed as a security measure, this Govt. might take legal opinion on the subject and deal with any claims that might be raised by the contractor in accordance with such opinion. Clause 6 of the agreement specifically provides that if

for any reason the State does not purchase the full quantity of 500 gallons of arrack in any month during the period of contract compensation shall be payable. This Govt. are advised that it will be difficult to maintain that the Collectors action in having closed the arrack depot as a security measure at the time of taking over the Administration amounts to an Act of State. ~~and that~~ Consequently compensation ~~is therefore~~ would be payable to the distiller. As regards the amount of compensation payable, it has been pointed out that where a contract is broken the person complaining of the breach is entitled to (Compensation for) the loss or damage caused to him by such breach. In the present case, if the contract had not been broken, the State would have paid the distiller Rs.5/- per gallon of arrack but the distiller was bound to manufacture the arrack and the cost of production of arrack (which is said to be Rs.4-4-0 per gallon according to the statement of the distiller himself) would have been borne by him entirely. He will therefore be entitled to the difference between the price stipulated viz. Rs.5 and the cost of production per gallon viz. Rs.4-4-0 i.e. ~~at the rate of~~ to annas 12 per gallon. This works out to Rs.1875 only for the 5 months during which the distillery was kept closed. This is one view. Another view is that as a special penalty clause for non-fulfilment of the contract has been incorporated in the contract deed, equity at least demands that it should be observed. The Collector of Bellary is of this opinion and he accordingly recommends that the distiller should be given compensation according to the terms of the penalty clause and that Govt. should not take refuge behind any legal technicalities. ~~The Govt. of Madras are inclined to agree with the Collector's view that an equitable compensation should be paid to the distiller in spite of the legal advice.~~ At the rate of Rs.4-4-0 per gallon the compensation works out to Rs.10625 for 5 months at 500 gallons for each month.

I am directed to request that the views of the Govt. of India in the matter may please be obtained and ~~communicated to this Govt. at an early date.~~

101 4+5

communicated to this Govt. at an early date.

9.4.49.

AR
9-4-49

PROPRIETOR
M. L. Narayanaswamy

SECRETARY TO GOVERNMENT
8 MAY 1949
REVENUE DEPARTMENT

SREE VENKATESWARA SWAMY
OIL MILLS, GINNING, DECORTICATING
AND COTTON PRESSING FACTORY

Telegrams: "~~DISTILLER~~"

TADPATRI

REFINE

Department

[redacted]

MADRAS,
14--5--49.

To
The Honourable Minister for Prohibition,
Government of Madras,
Madras.

Respected Sir,

Sub:- Sandur State - Arrack Distillery -
My claim of Rs.12,500/- orders
for Payment requested.

I have the honour to invite your kind attention to my letters dated 8--2--49 and 25--2--49 addressed to the Special Officer, Sandur, claiming Rs.12,500/- being the compensation for 5 months (August '48 to December '48) for non-drawal of arrack as per our agreement entered into with the State Government and the memorandum No.47/48B (S.O) dated 8--3--49 of the Special Officer, Sandur, copies of which are herewith submitted for favour of perusal. I beg to submit that it is more than two months, and nothing has so far been heard in this matter. I now, most humbly beg to request your honour to kindly arrange to pass orders for the payment of the said amount on as early a date as possible.

Yours faithfully,

DISTILLER: SANDUR.

To AS.

Rev. Deptt:

As it is understood that the relevant file is being dealt with in Rule (Poll) this may be transferred to that Deptt, who will doubtless circulate the file to Ex1 (Pro) also.

31/6/49

Rule (Poll)

603

2

R.C. No. 47/40B (S.O)

State Secretariat, Sandur,
Dated 8th March 1949.

MEMORANDUM OF THE SPECIAL OFFICER.

Sub:- Arrack Distillery , Sandur - Claim for Compensation .
Ref:- Your letter No.nil dated 25-2-49.

The matter is under consideration and orders passed will be communicated to the distiller.

(sd) T. K. Jayarama Ayyar
8-3-49

(sd) P. Ramachandren,
General Secretary to Govt;of Sandur.

/True Copy/

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T A D P A T R I,
8th Feb. 1949.

PER REGD. A.D.

To

The Special Officer
in charge of the State Administration,
Sandur. (Bellary District)

Sir,

Sub: My claim for compensation Re: Distillery and supply of arrack at Sandur.

From your letter dated 24-12-48, I understant that my claim for compensation is under consideration.

In continuation of and without prejudice to my claim already made, I wish to state as follows:

In as much as the work of the Distillery has been resumed as per your orders and the supply of arrack has been received for January 1949, my claim to compensation under clause 6 of the agreement between myself and the state, becomes payable upto 31-12-48. The period for which the distillery was closed and supplies not received was 5 months August to December 1948 (both inclussive). The Distillery was closed and the stock was sealed under the orders from Government and I was intimated from time to time that I had to await further orders from the Government. The shops having been closed, the arrack was not received. For these reasons, I submit once again, I am entitled to the compensation.

The amount I have to get for these 5 months is Rs.12,500/- at Rs.2,500/- per month, being the cost of 500 Glns. This is an ascertained amount of compensation and as such I am entitled to its compensation.

Without prejudice to my claim for other items of compensation which are ascertainable, I request that this sum of ascertained compensation amounting to Rs.12,500/- be paid immediately, as further delay in the payment causes loss to me by way of interest.

Yours faithfully,

(Sd) M.L.NARAYANASWAMY.

DISTILLER:

/TRUE COPY/

T A D P A T R E,
25th Feb.1948.

REGD. WITH A.D.

The Special Officer i/c of the
State Administration, SANDUR.

Sir,

Sub: My claim for compensation Re: Distillery and supply of arrack at Sandur.

Ref: My letter dated 8th February, 1949.

I beg to invite your kind reference to my above cited reference and I request that the sum of Rs.12,500/- due to me for August to December 1948 (five months) may please be paid to my Distillery agent Sri T.Sreeramulu at Sandur, at an early date.

= =

Yours faithfully,

(Sd) M.L.NARAYANASWAMY.

DISTILLER, SANDUR.

/ TRUE COPY/

606

R.C. No. 12592 /49 C.S. Dated. 17-5-49.

From E.C.ALLARDICE, ESQ., I.C.S.,
COLLECTOR, BELLARY.

TO THE CHIEF SECRETARY TO GOVERNMENT
FORT ST.GEORGE, MADRAS.

Sir,

Sub:- States-Sandur State- Arrack Distillery-
Closure of - Compensation payable to the
distiller - Orders Requested.

Ref:-Govt. Endt.No.1698/49-3, dated 14.4.49 of
Public Political Department.

I invite your attention to Government Endorsement cited

and request early orders.

Collector, Bellary.

Main file in
Com Hon. (Law)
& Ltr on 17/5 hvr. 17/5

Public (Political) Dept.

The main file required to above has been circulated to H.H (Law) and H.Pr on 17/5/1949. Its return may be awaited.

24/5/49 24.5.49

26/5/49

~~Secret~~ 107

Memo no 1698/49-5

Public (Political) department

dated. 7.6.49

7/6/49

Sub.: States - Sandur - distillery - closure - payment of Compensation -

Ref:- from the Collector of Bellary, R.C. no. 12 S-92/49 C.C. dated 17/5/1949.

(top file) The matter is still under consideration.

6/6/49

Cell 6.6.49

7/6/49

To: the Collector of Bellary.

876

ASSISTANT SECRETARY
4199
12 JUL 1949
CHIEF SECRETARIAT

GOVERNMENT OF INDIA

MINISTRY OF STATES

No. F.49-Econ/49

From

The Deputy Secretary to the
Government of India, Ministry of States.

To

The Chief Secretary to the Government of Madras,
Madras.

Dated New Delhi, the 9th July 1949.

Closure of the distillery of the Sandur State as a security measure. Compensation claimed by the distiller

---

Sir,

I am directed to refer to the correspondence resting with your letter No. 1698/49-4, dated the 3rd June 1949 and to observe as under -

2 With regard to the claim of the distiller to compensation, it seems that, subject to the legal advice which the Government of Madras may have obtained in this behalf, as payment of compensation or damages would be for breach of a written contract, the "assessment "of the damages must be in accordance with the terms thereof. Where any contract itself provides, in specific terms, either a "sum certain" by way of "liquidated" damages or the mode of calculating the damages, in the event of its breach,- those terms must wholly govern the matter. In such circumstances all alternative modes of assessing damages would be academic.

3. On this view, the compensation to be paid must be calculated on 2500 gallons "to the extent of the cost" thereof (vide clause 6 of the agreement entered into by the distiller with the State.) The expression "cost" has not been defined in the agreement. But it certainly cannot mean the "selling price less cost of production "i.e. 12 annas per gallon; for, it would equate "cost" with "profits". It is also doubtful whether it can mean "cost of production to the distiller "(Rs.4.4.0 per gallon); that would be a too-highly technical a meaning to place upon the simple but undefined expression "cost". (Clause 8 of the agreement read with clause 12 thereof seems to indicate that "cost" means the "buying cost" of the Government.) If so damages must be paid at Rs. 5/- per gallon i.e. Rs. 12,500 as claimed by the distiller. The amount should be debited to the Sandur State's portion of the Collective Account.

Yours faithfully,

N. N. Sengupta

Deputy Secretary
to the Government of India.

ANAND

"Revenue Department".

From
Sri.A.Suryarao Naidu, B.A.,
Collector-in-charge,
Bellary.

To
The Chief Secretary to
Government, Fort.St.George,
M a d r a s.

Rc.No.12592/48.S.1.dated 30.7.1949.

Sir,

Subject:-States-Sandur-Distillery-Closure -Payment of Compensation-Orders - Requested.

Reference:-Government Memorandum No.1698/49.5.Public (Political) Department dated 7-6-1949.

--

ASSISTANT SEC FT. ST.
- 4 AUG 1949
4728
CHIEF SECTT. ...

I invite your attention to the reference cited and request that orders passed if any, may kindly be communicated at an early date, as the Distiller is pressing for payment.

hrs/2.8.1949.

for Collector-in-charge.

VD 61

Public (Poll) department.

Revenue u.o. in continuation of this department u.o. no 1698/49-7 d 21/9/1949. that department may be requested to send an interim reply to the collector, if necessary.

P15

4/8/49 Cur 4-8-49

5/8/49

Pol: Poll 4728'49 6-8-49

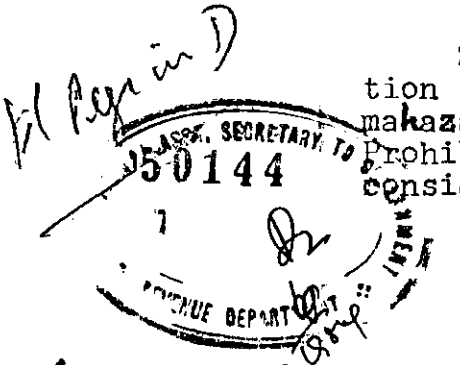
Revenue 8/8/49

Revenue 9/8/49

Extract from Rule (MM) No. 2507/44-G dated
relating to the State of Madras

Collector's Report Refer: CR 5364/(5) CC) 4.6.69

27. A section of the people are eager to have prohibition introduced in the State and there was recently a mahazar from Prajaparishat, requesting for introduction of Prohibition. It was submitted to the Government for consideration.



[Extracts added with reference to letter CNA 47654/69]

Rev Deptt.

Memo. No. 45034 D/48-2 D 2-9-48

Rehn-States-Sandur-distillery-closure of-Payment of compensation-

Ref: From the Collector of Bellary, Rc No. 12592/48 S.1 D 30.7.48 addressed to the Chief Secy to Govt.

The Collector of Bellary is informed that the matter is proposed to be referred to the Advocate General for opinion. A decision in the matter will be communicated soon after the receipt of his reply.

for
1.9.48

To
The Collector
Bellary

BOARD OF REVENUE (EXCISE) DEPARTMENT

***

Sub: States - Sandur - Grant of licence to the distillery - Report - Certain - Submitted.

Read: 1. Government Memorandum No. 18726 D/48-15, dated 27.10.1949.
2. From the Collector of Bellary, R.C.No. 11476/49-S.1, dated 9.12.1949.
3. From the Assistant Commissioner for Distilleries, C.R. 2954/49-A, dated 29.12.1949.

***

C.R.No. 23532 Abk/49-X.A.2, dated 25.1.1950.

Station - Triplicane, Madras 5.

From

Sri P.Rajagopalachari,
Assistant Secretary, Board of Revenue (Excise).

***

Sri.V.N.Kudva, I.C.S.
Member, Board of Revenue and Commissioner of Commercial Taxes.

***

REFERENCE:-

With reference to the Government's Memorandum cited, the Board submits as under.

2. The Collector of Bellary, in his letter cited (Copy submitted to Government direct) states that the Mysore Excise Act, 1901, is in force in Sandur State and that it is necessary for a distiller to obtain a licence under that Act. He reports that, so far, no difficulty has been experienced in enforcing the provisions of the Act, though a licence has not been issued to the Sandur Distiller. He, however, suggests that a licence may be issued to him on collection of a fee of Rs.50/-. The Board also considers that it is desirable to issue a licence to the distillery so as to have a check over it. The Assistant Commissioner for Distilleries is being asked to obtain from the Special Officer, Sandur, a draft licence form and to submit it to the Board. The draft licence form will be submitted to Government for approval on receipt.

3. The Commissioner can issue licences under the Madras Abkari Act, 1886, and the Madras Prohibition Act, 1937. As the Sandur Excise Act is still in force in the State, the Commissioner cannot issue a licence to the distiller. The Assistant Commissioner for distilleries suggests that the Special Officer, Sandur, may be asked to issue the licence as he is a liaison Officer between the Central and Provincial Governments and State. His suggestion may be accepted. A copy of his report C.R. 2954/49-A, dated 29.12.1949 in the matter is enclosed for Government's perusal and orders.

ASSISTANT SECRETARY.

To

The Secretary to Government,
Revenue Department
(with enclosure)

Copy to the Collector of
Bellary.

AC.28.1.

Copy of C.R.No. 2954/49-A, dated 29.12.1949,
from the Assistant Commissioner for Distilleries, Madras.

Sub: States - Sandur - Merged in Bellary district- Taking over Excise Administration - Grant of licence to the Distillery.

Read: Board's C.R.No.23532-Abk/49-XA.2 dated 23-12- 49.

I have already submitted a detailed report regarding the Distillery at Sandur in my C.R.No. 2954/49-A, dated 24-12-49 and I have mentioned therein the fact that the Distillery is working without a licence. The Special Officer, Sandur told me that as he took over the administration of the State only from 1-4-1949 he could not issue a licence as he was not quite sure whether he could do it in the face of the agreement existing between the State and the Distiller.

2. Now that the Collector, Bellary and the Government are both agreed that a licence should be issued to the Distiller, I submit that the Special Officer, Sandur, may be asked to issue it immediately, as it has been done hitherto as I feel that the Commissioner is not competent to issue the licence for the following reasons:--

(i) The Sandur Excise Act of 1937 is still in force in the State and it has not been superseded by the Madras Abkari Act and the Commissioner can issue licences only under the Madras Abkari Act and the Madras Prohibition Act and not under any other Act.

(ii) Though the Government have authorised the Commissioner to take over the Excise Administration of the State, it has been done more in the nature of a care-taker than anything else especially as the Government has issued definite instructions that whenever the administration of the State is taken over by heads of Departments of this Government it should be exercised as far as possible in conformity with the laws now in force in that State with suitable modifications as are absolutely necessary till the laws in force in this Province are extended to the State. As neither the Madras Abkari Act nor the Madras Prohibition Act has so far been extended to Sandur, nor the Sandur Excise Act modified to include the Commissioner of Commercial Taxes in its ambit he is not in a posibion to issue the necessary licence to the Distiller.

(iii) The counter part agreement executed between the State and the Distiller and which is still in force is another impediment in the issue of a suitable licence by the Commissioner as he is not a party to the agreement.

(iV) The Special officer is a liaison officer between the Central, Provincial and the State Government and he is therefore the most suitable person to grant the necessary licence to the Distiller.

P.T.O.

S 11 C

2
-2-

3. The special Officer, Sandur, may therefore be requested to submit asdraft licence form and a copy of the Sandur Excise Act 1937 to the Board for ~~Secretary~~ before issue to the Distiller.

p. 13 CF
Fin file

/True Copy/

K N Narayanna
Superintendent. 28/1/50

T.S.28.1.
2
28/1

Rev. Deptt.

To DS

Please see pp 1-3 above. The main file on the subject has been sent to Legal/Fin vide Rev. No. 18726 D/48-21 dt 19-1-50. They have been reminded on 6.2.50 for early return of the file with their remarks. As the main file is necessary for the disposal of this Paper, this may lie over till 15.2.50 for the return of the main file.

9/2/50

To A.S. orp: 2 (ante) 6

Please see the Board's reply ~~to the Reminder~~. Its remarks may be awaited till 27.7.48

B 7.6.48

7.6.48

To AA

London Has since been merged in this Division - Details of the merger may be awaited from Ours (Ord) till 15.8.48.

What about inter-divisional activities etc. on this account?

2.6.48.

To AS.

Refer orders above

A draft memo to the Board is put up below for approval. Ours (Ord) may see before mine

7/8/48

7.8.48

Ours (Ord)

Have we got official intimation about Sandur's merger? If not, let us await it.

MK

9/8/48.

To A.S.

Please see D.S's query above. No official intimation has so far been received from Public about Sandur's merger ~~Govt. have decided that extension of Prohibition to the rest areas of the Province should be postponed till April '49. Meanwhile the Boards reply to this Deptt's Secy. on pt. may be awaited till 1-9-48~~

In this connection attention is invited to the reference since received from the Bd. [illegible] pp 2-3 c.F. The Board wants to know what administrative arrangements in respect

of Excise or Prohibition are in force in Sandur at present and whether the Provincial Excise Deptt. should control them. With reference to Para 2 in the Board's reference please see Govt. Memo. No. 20478 D/48-3 dated 13-6-48 in which permission was granted to the ex-distiller of Banganapalle distillery to export the balance of liquor in the Banganapalle distillery to Sandur State. The Board considers that the above order will have to be revised if Sandur has merged with the Indian Union and if Prohibition is to be enforced there. Public (Poll.) may be requested to State whether Sandur has been merged in this Province ~~xxxdxxx~~ and whether any instructions have been ~~xxxxx~~ received from the Govt. of India regarding the extension of the Provincial and Central Acts to Sandur.

Rev. (40) No. 18726 D/48-2
dt 14-8-48

lx

Public (Poll) Deptt

The file has been sent to this Department with reference to A on p. 3 above. Jaipur has not yet been merged with Indian Union. Only the administration is being carried on by the Resident of Bikaner in the name of the Ruler. No instructions have been received from the Govt. of India about the extension of Acts to this State. With the above information the file may be returned to Revenue.

The merger agreement is expected to be signed shortly if not already done & further instructions are likely to be received from India by the end of this week.

AR ✓
24.8.48

Rev (D)

This Pub (Poll) Dept

A 20/8/48

Pub Political Dept.
O.W.O. 3382/48-I
24/8/48

To A.P.

Please see the Pub. (Poll.) Deptt. note above. The reference on p. 4 C may also be perused. With reference to A above the Public (Poll.) Deptt. may be reminded on 5.9.48. The file may lie over till then.

29/8

30/8

R 48721 D
2 Dept
D 3 48

Rev (D).

To A-S

Please see orders at bottom of p. 4 ante. The file may be sent to Pub. (Poll.) who may be requested to state whether the merger of Sandur State has been accomplished.

8/9/48

Pub (Poll.)

Rev. No. N- 1872 B2/48-3
8.9.48

Public (Poll) Deptt

The position relating to Sandur is still as at S on p. 4 above. May be returned to Rev.

Thro' Public (P.L)
13/9/48

14-9-48

Rev Deptt.

10.9.48.

Rev
Pub. Political
No. 3833/48
1419/48

To A-S.

Please see the note of the Pub (Poll) Deptt above. The file may be over [illegible]

5.10.48.

21-9-48

Rev Deptt.

Please see the orders on p. 5 ante. Public (Poll.) Deptt. may be requested to maintain ~~the latest stage of the matter~~ ~~Thereafter to their remarks at foot~~ ~~of p. 5 ante~~ stage at which the matter now stands.

Pub (Poll)

15/10/48 Pub (Poll).

Pub (Poll) Deptt

Rev may be informed that Sardar Ras not yet been merged with the Indian Union but negotiations are in progress.

18/10/48

Rev

Rev Deptt

Pub. Political

and 4476/48-I

20/10/48.

7

The Board has submitted a copy of the letter on pp 6-7 of and has again asked for orders on the administrative arrangements to be made in Sandur in respect of Excise or Prohibition. It is observed from the copy of the letter to the Special Officer in charge of Sandur State administration, on pp 6-7 that the present administration in Sandur has closed arrack shops. Pub (Coll) may be requested to state whether they have any previous papers on the subject and whether the Govt. should not make interim arrangements for the administration of the Excise Revenues of Sandur pending the merger of the State in this Province.

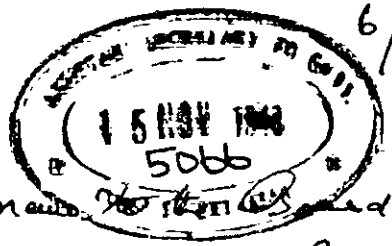
4.11.47 D.S.

Pub (Coll) 31.10.47

8/

Under what authority has the Stock of arrack in Sandur been sealed up? Have any orders been issued regarding the introduction of Prohibition in Sandur? My recollection is that we had permitted the export of arrack stock in Bangarapalle to Sandur. Will A S please speak?

MR
6/11/48



T. As

A draft memo to the Board of Revenue is submitted as instructed. And (Rose) may see.

9.11.48

10/11/48

11/11/48

(removed)

Rev. misc. 18726D
48-63 12.11.48

Shri Rose & D.S. He wants that a draft should be put up to Board for taking as to who under the rules of the stocks (Govt) will speak better with further

Rose (BOR) speaks

9.11.48

5066/48.

Public (Pol.) Dept.

Please see the answer of D.S. Revenue on p. 8 above and the draft memo to the Board of Revenue. The Collector of Bellary reported to Govt in his report dated 2-8-48 that taking into consideration the security situation he had to order the destruction of four barrels of arrack which were getting spoilt & that he had also ordered the closing of the distillery as a security measure for some days. (The original of this and further reports about this are in S.C.). With the above information this may be returned to the Revenue Dept.

19/11/48 Cur 18-11-48

Thro' Pub. (S.C.)

Pub. (S.C.)

The Sandur State has not yet merged with this Province. The administration of the State is being carried on by this Govt. on behalf of the Ruler. Prohibition cannot therefore, be introduced until the State has actually merged with this Province. The question of re-opening the distillery, which was closed by the D.M. as a security measure, is under consideration in this Dept. The Govt. of India, who were addressed in the matter, have no objection to the re-opening of the distillery which has entered into a contract with the State to supply 500 gallons of arrack monthly.

J.S. 18/11/48. AR 21-11-48 2/5 19/11/48 24-11-48

1 Rev.

Pub (Pol) 1 & 0
5066/48-1
S-11-W.

SUBSIDIARY ASSTT. SECRETARY TO GOVERNMENT
2 0 NOV 1948
BOARD OF REVENUE

Rev 14
13 bf 26/11/48

R 67069 D
26 copies

10

Rev Deptt

To A.S.

Please see the notes of Public and Board's Rev Deptts on the circumstances stated at ~~in the note~~ in para 1 of the draft memo. to the Board already approved is proposed to be omitted. The Board may however furnish the information as per para 2 of the draft. The draft by-laws as amended may issue

The draft memo. to the Board already approved has been suitably amended. The revised draft is for approval. No separate reply seems necessary w.r.t. Bdi Rep on p 8 C

Rev Dept

Bd

S/Shri (D.S)

A sentence has been added to the draft regarding the ~~sanction~~ distillery as instructed by D.S in person.

S/Shri D.S

To AS

Draft revised as instructed

S/Shri D.S

The memo may issue.

S/Shri D.S

Issued as Memo. No. 18726 D/ 48-6 dt 11.12.48 — AP 9-10 CF

From the Bd. of Rev. R.No. 226 Alk/48 S.2 dt — AP 11-19 CF

To A.S.

Please see the Board's reply on pp 11-19 CF. p. 1 to F

Attention is specially invited to conditions 3, 4 and 6 of the memorandum of agreement with the arrack supply contractor of the Sandur State (at pp. 16-19 CF). p. 11 CF

According to the Board the arrack supply contractor may have to be paid compensation if Prohibition is extended to the State before 18.10.1951. As the merger of the State with the Indian Union is not yet finally accomplished, the question of extending Prohibition to the State does not arise now

Cir 1 'X' on p. 6 ante

The file may be sent to Pub (Poll.) Deptt. to state at what stage the question of the merger of the State stands at present. ~~Legal also may perhaps see~~

22/2/49

26/2/49

1/3/49.

A-S

Pub (Poll).

Public (Poll) Deptt

Rev no. No 1872 D/48-7

D 1-3-49

1340

CHIEF SECRETARIAT

S above The position is still as mentioned at X on p. 6 above. May be returned to Revenue.

4.3.49 Cur 4.3.49.

AR 5.3.49

Rev

Pub (Poll) no 1349/49-1

5-3-49

1339

SECRETARY TO GOVERNMENT

ADDITIONAL REVENUE DEPARTMENT

Rev Deptt

A.S.

Please see the Pub (Poll) Deptt. note above. The file may lie over till 1.5.49.

7/3/49

8/3

12

TAS

Please see the letter from the Collector of Bellary & its enclosure on ff 20-25 cf & the extracts on ff 28-32 cf. In view of the merger of Sandur State with the Indian Union with effect from 1.4.48 action has to be taken on the following points:-

(1) Issue of a formal authorisation under the Extra Provincial Jurisdiction Act, 1947, in order to enable the Board of Revenue to take over the administration of the Excise duties in the State & run it with reference to the State laws;

(2) Extension of the Madras Prohibition Act, the Opium Act & the Dangerous Drugs Act to the State

A above. It is presumed that Consolidated orders will be issued in A section

Above. Before the Madras Prohibition Act, the Opium Act & the Dangerous Drugs are extended to the State, orders have to be taken on the question of extending Prohibition to the STATE. The Collector of Bellary has forwarded a Memo regarding the introduction of Prohibition in the State. There are no opium shops in Sandur and as the sale of arrack, toddy and ganja is done departmentally there is no difficulty in closing arrack, toddy & ganja shops. The previous Sandur Govt. have, however, entered into an agreement with a private contractor for the supply of arrack to the State. This contract expires only

Spill over to flap (K)

A on f 29 cf
B on f 30 cf

A ordering issue issued in 1736 RW 27-4-48 (K)

B.

ff 20-25 cf

f 12 cf

ff 16-19 cf

for 18.10.51. Under the terms of the Contract the State agreed to take from the distillery not less than 500 gallons of arrack of 35° up per month & if for any reason the State did not purchase the full quantity of 500 gallons of arrack of 35° up in any month during the period of Contract, the State should compensate the Supplier into the extent of the Cost of the quantity by which it fell short of 500 gallons. The cost at which the Contractor should supply arrack is As 5 per gallon. Recently when the distillery was closed for security reasons it was suggested that the distiller need not be given Compensation at the rate of As 5 per gallon and that he need be given only compensation equal to the gain he would have obtained had the State taken the stipulated minimum of 500 gallons. Public (Adl) dept have addressed the Govt of India about the Compensation which should be paid during the period the distillery was closed for security reasons. If Prohibition is extended it is however doubtful whether it will be sufficient to pay Compensation at the rate mentioned at Z above if Prohibition is extended before the expiry of the period of Contract on 18.10.51 especially as one of the Conditions of the contract is that the State did not have under immediate Contemplation the introduction of Prohibition in the State & would not also introduce Prohibition in the State on their own initiative during the period of the Contract. Before orders are taken about the extension of Prohibition to Salaries, Legal may be requested to state what Compensation

Leg

will have to be paid to the armed supply Contractor if Prohibition is extended to the State at any time prior to 18.10.51 when the Contract expires.

Tele Cop

Legal

LEGAL DEPARTMENT.

In connexion with the introduction of Prohibition in Banganapalle this Department observed that compensation will have to be paid to the licensees for the loss of their business on account of the introduction of Prohibition. The concerned file was passed on to Revenue with Legal U.O.No.2943/48-1, dated 11-3-1948. Revenue may put up that file for reference.

Rev

Thro' A Govt Bangalore.

Rev. No. 18726 D/488 dt 16-6-49

ASSISTANT SECRETARY 7598 17 JUN 1949 LEGAL DEPARTMENT

Legal U.O. 7598/49-1 22.6.49.

Rev. Deptt.

ASSISTANT SECRETARY TO GOVERNMENT 2 LEGAL DEPARTMENT

To Rev

Please see the Legal Deptt. note above. The Legal Deptt's observation at 'x' above will be found in their note at 5 of G.O. No. 731 Rev. D/31.3.48 put up at flag (N). The file may be sent to Legal

Legal

ASSISTANT SECRETARY 8508 6 JUL 1949 LEGAL DEPARTMENT

Rev No 18726 D/488-9 dt 4-7-49

Legal Department

It is presumed that, as a matter of policy, all contracts binding on the Sandur Durbar at the time

when the administration of the State was taken over should be recognized as equally binding on the present Government.

2. The general principle is that a promise is excused by the supervening impossibility caused on an Act of the Legislature or any statutory action taken by the executive authorities, which could not have been foreseen at the time when the contract was entered into. In such cases, the principle "that the loss must lie where it has fallen" applies (51 Indian Cases 412). But in this case, the Durbar has specifically undertaken that it "has not under immediate contemplation the introduction of Prohibition in the State and will not also introduce such Prohibition on its own initiative" during the period of the contract. It was an implied understanding on both sides that the basis of the contract was the continued existence of the state of affairs as it stood on the date of the contract, and that the Government will not introduce Prohibition.

3. There is no doubt nothing in the contract to indicate what shall be the consequences of a breach of this undertaking. In the absence of any clear provision in the contract, compensation for the loss of a reasonable profits would be a legitimate claim for the breach of the undertaking. Clause 6 of the contract gives an indicatic as to what compensation may reasonably be paid in this case. Under that clause, if the State does not purchase in any month the full quantity of 500 gallons of arrack, the State shall compensate the supplier to the extent of the cost of the quantity by which the quantity purchased falls short of 500 gallons. In connexion with the closure of the shop for security reasons, it was ascertained that the distiller himself admitted that the cost of each gallon works out to Rs.4-4-0. Under clause 12, the

Government have agreed to pay Rs.5 per gallon. The actual loss to the contractor is the difference between the cost of production and the price stipulated, viz. 12 annas. 500 times this amount or 375 Rs. per mensem for the period during which the contract will remain in force is the amount which the contractor can reasonably claim by way of compensation.

4. Perhaps we may wait for, and see, the reply of the Government of India to the letter sent in connexion with the amount of compensation payable to the contractor for closure of the shop for security reasons, before passing final orders on the compensation to be paid to the contractor in this case.

12/7/49.

Legal wo85-08/49

Revenue Deptt 12/7/49

To A.S.

R 43352 D

Please see the Legal Dyptt. note above. The file referred to at 'x' above has since been transferred to this Deptt. by the Rule (RK) Deptt. ~~The~~ A copy of the Govt. of India's reply in that file is put up at flag (M).

According to the letter of the Govt. of India at (M) ~~as follows that~~ any compensation that may have to be paid to the distillery contractor owing to the closure of the distillery consequent on the proposed ~~intr~~ extension of Prohibition to Sandur, will have to be calculated at Rs 5/- per gallon and for 600 gallons per month for the period of such closure (i.e. from the date of introduction to the date of expiry of the contract which is 18.10.51) as per clause 6 of the agreement vide p.16 CF. D/AS This works out to Rs 2500/- per month.

The file may be sent to Legal with reference to para 4 of their note above.

DS

Legal

Rev no 1872/16

CR 45034 (Receipt and Dispatch)

Plan work

Legal Department

(M)

The view at M on pages 15-16 ante was based on the opinion of my predecessor, Mr. Justice P.V. Balakrishna Iyer. The Government of India are inclined to a different view, but there is one aspect which the Government of India have failed to take into account. The fixing of compensation at so exorbitant a rate as 5 rupees per gallon, when the real loss is only 12 annas, will be in the nature of a penalty within the meaning of section 74 of the Indian Contract Act. The party complaining of the breach is therefore entitled to be paid only reasonable compensation. The contractor cannot well claim to be put in a better position that he would have occupied, if there had been no breach of the contract. The contractor does not seem therefore to be entitled to compensation at a rate higher than 12 annas per gallon. The sum involved is very substantial, and I suggest therefore that the views of our Advocate-General may be obtained.

K.M. 10/8/49

Rev. dept

X.D.No. 9868/49/1 11.8.49.

R 15100 D 1/8

ADDITIONAL ASSTT. TO SECRETARY REVENUE

To S.S.

Please see the Legal Deptt. note above. ~~A draft letter to the Advocate General is sent. Return for approval. Legal may see before issue.~~

2. In this connection it is submitted that in his letter at p61/cf of 48 the distiller had in his letter dated 8.2.49 stated that the distillery was closed for 5 months from August to December 1948 and had claimed compensation for those 5 months. In the letter at p53/cf the Collector has however stated that the arrack shops were closed from 29.7.48 till 26.1.49 and that the Contractor has claimed compensation for breach of Conditions of

p61/cf of 48

the Contract during the period from 29-2-48 to 26-1-49. The Board may be requested to verify and report the period for which Compensation has to be paid to the distillers.

3. A draft memo to the Board & a draft memo to the Govt. Solicitor asking for the Advocate-General's Opinion are sent. Our (OSD) & Legal may see before issue.

29 Aug

1.9.49

Memo to the Board may issue. After issue Pub (POL) & Legal may See. The file should be circulated before the A.G is consulted.

1/9/49

Issued as Memo. No. 18726 D/48-11 D 2-9-49 to Collector of Bellary.

To AS

The file may now be sent to Pub (POL) and Legal for acceptance of the draft letter to the Advocate-General below.

5/9/49

6.9.49

Our (OSD)

Legal.

Public (Political) department

The draft memo below to the Govt. Solicitor inviting the opinion of the Advocate-General in the matter of payment of compensation to the distillers may be

P.T.O.

Ref. to A.G.

Legal (

Memo No. 18726 D/48-12

Pub (POL)

5451

8 SEP 1949

CHIEF SECRETARIAT

perused and the file passed on to Legal.

9/9/49 Cee 10.9.49.

12/9/49 S.S./ Legal. 13/9

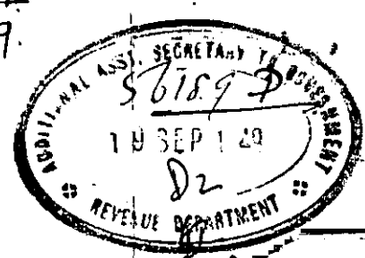
Pub (Pall)
5451/49·1
13/9/49

Legal Department

Seen in Legal. The alterations indicated in red ink on the draft may be made.

15/9/49 16/9/49

Legal 2·0·11777/49·
16·9·49.



Rev. Dept.

To A1

Please see Legal dept note above. With reference to the corrections made by Legal at X on p 3 of the draft it is submitted that no orders were issued closing the distillery. But as the Govt. arrack depot was sealed & no arrack was issued to the shops for public consumption from 30.7.49, the effect was the same as ordering the closure of the distillery - Please see in this connection para 2 of the Special Officer's report at p 35 of 49 Pf. and S on p. 45 of ibid

2. The draft memo to the Govt. Solicitor may issue as amended by Legal. The question of introducing Ordinance in Sanders may be taken up after the Advocate General's opinion about the rate of Compensation to be paid

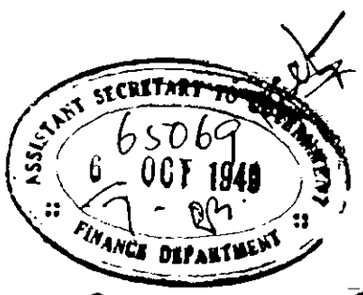
the distiller is received.

Finance have not been like this case so far
Fin. may look for it before circulation.

4.X.49

D/S

5.10.49



Rev no. 16 & 18726 dt 4

Fin (Exp B)

6.10.49

The file has been sent to this dept with reference to the payment of Compensation to an arrack Contractor for breach of contract entered into by the ruler of the Sandur State. As per the Contract the distiller Govt had to purchase from the distillery 500 gallons of arrack per month at the rate of Rs. 5 per gallon. If there was failure to purchase the minimum, Compensation had to be paid on the quantity short purchased.

The Arrack Depot in Sandur had to be closed for about 6 months from the end of July '48 owing to security reasons. The Compensation claimed is in respect of this period. There are two views on the rate to be adopted for the payment of Compensation. One view is that the Compensation need be for the loss in business only. The cost of manufacturing 1 gallon is Rs. 4-4-0. At the rate of Rs. 5 per gallon the profit is as 12 per gallon. The view is that Compensation need be paid only at this rate. (x)

The other view is that the Compensation should be at the rate of Rs. 5 per gallon for the (M) quantity not purchased during the 6 months.

The opinions of the ~~Govt Solicitor and the~~ Advocate General is proposed ~~to the subject have been~~ to be asked for.

(The question of payment of compensation in the event of the introduction of Prohibition in the area has also been raised.)

p.16-17 C.F

p.16 C.F

Ch. 12, p.17 C.F

p.35 C.F

Desa note — p.17 above

(x) i.e amt $\frac{250}{500} \times 6^{3} \times \frac{3}{4}$ = Rs 2250

(M) i.e amt $500 \times 6 \times 5$ = Rs 15,000.

Remarks Seem called for in finance at this stage
The draft memo below may be perused & the case sent to Revenue
DD 17/10-49.
RJ 13.10.49
Rev Dy Sec
Rev Dy

Finance
650695B.1
14.10.49

Rev Draft.

To AS

Please see the note of Fin. from p. 20 ante and the Board's Refer. at pp 36-38 CF.

pp 36-38 CF — The Board has ~~many~~ (at pp 37-38 CF) forwarded the Collector's letter and ~~requested orders~~ regarding the continuance of the Sandoor distillery beyond 30.9.49. The Collector has requested ~~for~~ instructions as to the form to be adopted for licensing the distillery from 1.10.49 as the period for which the distillery paid the licence fee of Rs 50/- expired on 30-9-49. The Collector has also stated that the previous regime collected a fee of Rs 50/- every year towards licence fee but granted no formal licence to the distillery, though under section 12 of the Sandoor Excise Act every distillery for the manufacture of arack ought to have a licence. The Board has not offered any remarks in the matter. For orders whether the Bd. may be informed that the distillery may be allowed to function till further orders and that no formal licence need be issued now. As no licence is being issued, the licence fee of Rs 50 per annum referred to above need not be collected. Legal and Fin. may again see the ~~prior~~ circulation ~~to HH (Rlw)~~ for approval of the draft memo to the Govt. Solicitor.

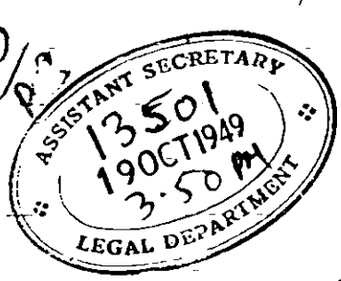
pp 37-38 CF and asked for orders

para 1 p. 37 CF

* Z at p. 37 CF

† I am with the

X



O/P

Rev 19/10/49
19.10.49

CR 19.10.49

Legal
Fin.

Rev no Rev: 18726 D/48-14
with EF
D 19.10.49

Legal Dept.

There is no objection to the proposal of Rev at X on p 21 ante. But in the absence of a licence, the Govt will not be able to enforce the conditions which might be imposed in the licence. The Board or Coll^r may be asked to offer their remarks on this aspect & in particular whether any difficulty will be experienced on this account. A copy of Messrs Saunders Enquire Ltd referred to by the Coll^r at p 37 ante may also be called for. // The draft memo to the Govt Solicitor need not be held up on this account.

HM
24-10-49

Fin

Legal No. 13501/49
24-10-49

Dy. Fin (Expds)

Rev Fin note on ps 20-21

The file has been sent to this Deptt with reference to the collection of the licence fee of Rs 50 from the distiller in Saunders state. The proposal of Rev at X on p 21 above may be agreed to subject to the remarks of Legal Deptt above.

Rs 50/-

DDI
24-10-49.

Asst
24.10.49

Asst
Rev.

Fin No 70357 EB-1

ASSISTANT SECRETARY TO GOVERNMENT
24 OCT 1949
70357
FINANCE DEPARTMENT

ADDITIONAL ASST SECRETARY TO GOVERNMENT
63060
20 OCT 1949
D 260
FINANCE DEPARTMENT

Rev Deptt.

To HM.

Please see the notes of Legal and Fin. above. (A draft memo is filed with reference to above. After issue of the memo to the Collector the Board, the file may be circulated to HM (Rev.) for orders whether the draft memo to the Govt. Solicitor below may issue. The

question of introducing Prohibition (in Sandur) may be taken up after the Advocate-General's opinion about the rate of compensation to be paid to the distillers is received. ~~(Action in this respect to be taken in the Legal Dept. note at page ante will be taken after issue of the draft memo to the Govt. Solicitor).~~

DV 26/10/49 GC 26.9.49

DS 26.10.49

MR 27/10/49.

H.M. (Prohibition) (ai of memo to Govt. Solicitor) vide pp. 38-40 C.F.

Draft memo may be issued (PRO)

Part: Is it necessary that we should await the opinion (ai of memo to Govt. Solicitor) of the Advocate-General before introducing prohibition in Sandur? I feel we should take it up early. This point may further be examined.

0752

REVENUE DEPART. 1 1949

SECRETARY TO GOVERNMENT 4 NOV 1949

To A.S.

Please see the minutes of H.M. (Prohibition) above. The Memo. to the Advocate-General has been issued - vide pp. 44-46 C.F. With reference to the minutes of H.M. at 'A' above, the question of introduction of Prohibition is re-examined below.

2. Sandur State has merged with the Indian Union from 1-4-1949. This file deals with the question of extension of the Madras Prohibition Act, the Opium Act and the Dangerous Drugs Act to the State. As regards the Opium Act and the Dangerous Drugs Act which are Central Acts, Public Department have stated in another connection that the Government of India propose to introduce a Bill in the Dominion Legislature extending all important Central Acts to the merged areas. The

Pub. rel. on proj. LF II (Govt. of India) removed

Government of India have not yet sent their draft Bill to this Government for remarks and the same is awaited by the Public Department. If these two Central Acts are extended by the Government of India, then this Government need not separately extend them to Sandur. The connected file is kept lying over pending the receipt of copy of the Government of India Bill.

As far as the Prohibition Act is concerned, orders have to be taken in circulation whether the Act may be extended to the Sandur area, irrespective of the nature of reply of the Advocate-General to the Memorandum on pp. 44-46 C.F. The Collector of Bellary has forwarded a mahazar requesting the introduction of Prohibition to Sandur. The Board of Revenue has suggested that the Madras Prohibition Act may be extended to Sandur with effect from 1-4-1950. There are no opium shops and as the sale of arrack, toddy and ganja is done departmentally there is no difficulty in closing these shops. The previous Sandur Government have, however, entered into an agreement with a private contractor for the supply of arrack to the State. This contract expires only on 18-10-1951. If Prohibition is introduced in the Sandur area now, the contractor will have to be paid compensation as under the terms of the contract the State agreed to take from the distillery not less than 500 gallons of arrack of 35° U.P. per month and also agreed to the payment of compensation if the State did not purchase that quantity of arrack from the contractor. The question as to what amount of compensation the contractor is eligible in the event of introduction of Prohibition to the area and if the distillery is consequently closed at any time before 18-10-1951 (the date on which the period of the contract expires) has been referred to the Advocate-General for his remarks vide item (ii) in para 3 of the Memorandum on pp. 45-46 C.F.

3. The points now for consideration are --

-next page-

(i) whether Prohibition may be extended to Sandur State without waiting to know the full financial implications after receiving the Advocate-General's reply; and

(ii) if so whether it may be extended immediately instead of from 1-4-1950 as suggested by the Board.

If Prohibition is to be extended to Sandur immediately, the Madras Prohibition Act, 1937 may be included ~~immediately~~ in the consolidated Bill which Public (Political) propose to introduce.

4. Public (Political) and Finance may see for remarks.

17.11.49 DS

The Advocate-General has already been asked for his opinion and we may expect it shortly. Even if we decide to introduce prohibition in the State area before the expiry of the contract, it will presumably be not earlier than 1-4-1950. We have, therefore, plenty of time and can wait for the Advocate-General's opinion.

MR 18/11/49.

Special

Pub (Poll)

Finance.

Rev no. Nil
8726 D/48-17
D 18.11.49

SECRETARY'S OFFICE 7159 16 NOV 1949 CHIEF SECRETARY

Public (Political) department.

(Previous notes of this department at p.p 18-19 ante)

Minutes of H.M (Prohibition) at A. on p: 23 ante and notes of Revenue from XX on p: 23 ante may be perused. With reference to K on p: 24 ante, it is submitted that a copy of the ~~tentative~~ draft

P.T.O

F-B

Central Bill called for from the Govt. of India has not so far been received in this department. On receipt of a copy, it will be possible to say whether the two Central Acts in question viz; the Opium Act* and the Dangerous Drugs Act✓ have been included in the Schedule appended to the Central Bill. As the two Acts required to have already been included in the Schedule to the draft Central Ordinance, it is presumed that the Central Govt. will include them in their proposed Bill also.

* copy not put up
✓ - do

* copy not put up
19/11/49

'R' on p. 25 ante :- The Provincial Bill to be drafted will be on the lines of the Central Bill and the Acts included (Schedule to the) in the Bill will come into force on and from 1-1-1950 in the merged States so as to synchronise with the date fixed by the Govt. of India. If Revenue consider that in the circumstances explained in their notes * it is not possible to extend the Madras Prohibition Act, 1937 to Sandur from that date, they may have to take action seperately to extend it at a later date.

With the above remarks, the file may be passed on to Finance.

18/11/49

19/11/49

Finance

Fin (Expt B)

(Prev. Fin note on p 22 ante)

pub. (prh) U.O.

ASSISTANT SECRETARY TO GOVERNMENT
19-11-49
17 NOV 1949
FINANCE DEPARTMENT

The orders in Executive on p 23 ante and the further note may be perused. From the Circumstances stated this Dept may agree with the suggestion of Rev. that we may ~~Consider the Desirability of adopting~~ await thereafter of the Advocate General to the Memo. on ~~Excise Acts~~

DDD
19-11-49

pp.

27

pp. 44-46 c-f. before considering extension of Prohibition to Sandur

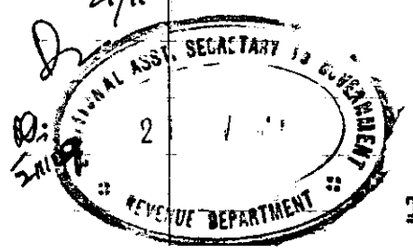
19/11/49.

Rev.

Fin U.O.No 78206/EB/49-1
19-11-49.

Rev Deptt.

R 68823
21/11



From the Govt. Solicitor Letter No.4393 dated 21-11-49.

pp 47-50

To A.S.

Please see the Advocate General's opinion at pp.47-49 CF and the notes from portion marked XX at p.23 ante. The Advocate General is of the view that the distillery contractor is entitled to a compensation equivalent to his loss of profits viz. 12 annas per gallon which works out to an amount of Rs.375/- per month for the period during which the distillery was closed or may hereafter be directed to be closed. This view is in consonance with that of the Legal Deptt. In the light of the opinion of the Advocate General, orders are solicited on the following points:-

A and B on p48 CF

p 17 ante

pp47-49 CF

1) Whether the distillery contractor may be ordered to be paid compensation at Rs.375/- per month for the period of about 6 months when the distillery was closed under the orders of the Govt. for security reasons. This works out to about Rs.2,250/-. The exact period has been called for from the Collector of Bellary. The Collector's reply has not yet been received. He is being reminded separately.

pp34-35 CF

2) Whether Prohibition may be extended to Sandur from 1-4-1950 as suggested by the Board of Rev. and

2 on p24 ante

3) If (2) above is approved, whether the distillery contractor may be paid compensation for the

(P.T.O.)

period from 1-4-1950 to 18-10-1951 (when the contract expires) at the rate of Rs.375/- per month which works out to Rs.6,962/-. When Prohibition is extended to Sandur, the Board may be requested to find the staff necessary for the enforcement of Prohibition from the staff already sanctioned for Bellary district.

Pub.(Poll.), Finance and Legal may see for remarks before circulation.

1/12/49 DS

The contract with the distiller will expire only on 18-10-1951. In other words, it has yet another two years to run. If prohibition is extended to Sandur before the expiry of the contract with the distiller, he will have to be paid compensation at the rate of Rs.375/- per month. The Board recommends the extension of prohibition to the State from 1-4-1950 and so, the compensation payable will work out to Rs.6,960/- nearly. Notwithstanding the fact that the compensation will have to be paid to the distiller, we may accept the Board's proposal regarding the extension of prohibition to the area from the 1st of April,1950 because the presence of a small wet area makes the enforcement of prohibition in the surrounding areas difficult and also the amount involved is not very large.

1/12/49.

Pub(Poll)
Fin.
Legal.

ASSISTANT SECRETARY TO GOVT. 7529 12 DEC 1949 FORT ST. GEORGE

Rev Dep. No. 18726 D 48-19
1.12.49
with LF

Pub.(Poll.)Deptt.

(Previous notes of this Deptt. on pp.25-26 ante.)

Further notes of Finance and Revenue from p.26 ante may be perused.

With reference to A on p.26 ante, it may be stated that a copy of the draft Central Bill has since been received and the two Central Acts in question viz. the Opium Act and the Dangerous Drugs Act have been included in the Schedule appended to ~~their~~ that Bill. No ~~action is therefore called for on this question.~~ separate action is therefore necessary to extend these Acts to Sandur as regards.

~~In respect of~~ the payment of compensation to the distiller, a reference is solicited to the Advocate-General's opinion at pp.47-49 c.f. and also to the different views of the Govt.of India on the subject communicated to this Govt. in their letter No.F.49-Econ/49 d/9-7-1949. Revenue may consider the desirability of obtaining the views of the Govt.of India again in the light of the Advocate-General's opinion on the subject.

With the above remarks, the file may be ~~returned~~ passed on to Fin. ~~to Revenue.~~

2/12/49 2/12/49

3/12/49

Fin

Fin (Sub B)

(Previous Fin. note at ℞ 2 above)

The notes on ℞ 27-29 above may be perused.

The proposal of Rev to pay a compensation of about Rs 2250/- for the period of about six months when the distillery was closed under the orders of Govt for Security purposes, may be accepted.

2. The second proposal is to extend prohibition to Sandur w.e.f. 1-4-50. From the financial

(F A)

Fin.

Pub (Poll) u.o.no 7529/49 d 3/12/49.

ASSISTANT SECRETARY TO GOVERNMENT 3 DEC 1949 FINANCE DEPARTMENT

3/12/49

If this is to be sanctioned, ~~Govt of India~~ Compensation will have to be paid to the distiller for the period from 1-4-50 to 18-10-51 @ Rs 375/- a month which works out to Rs 6960/- nearly.

4 B ante p. 1, 2, 8 infra

As the proposal to extend prohibition is in pursuance of the general policy of the Govt, the disadvantage to Govt from the financial point of view need not, perhaps stand in the way. Further, it is ~~Boards~~ Considered desirable to extend the prohibition to Sandur because the presence of a small wet area makes the enforcement of prohibition in the surrounding areas difficult. Rev support the Board's proposed. Finance may also agree.

4 A ante p. 2 & infra

Yes, subject to the remarks below
4
3/12/49

Rev may be requested to circulate the case to HM (Fin) also.

Legal to whom the case has been marked will no doubt advise whether a further reference to the Govt of India as suggested at M. in Pub (RM) dept's note on p. 2 ante is necessary. If the E.g.I. are to be addressed, issue of orders extending Prohibition to Sandur may be deferred till India's remarks are received & considered.

Rev
8.12.49

A

2. Financial procedure. The proposal to sanction compensation to the distillery contractor will be for the period when the distillery

M

distillery was closed for about 6 m. the last year and for the period from the date on which the lease is to be extended to under G.O 1-1-1951 (date of expiry of the contract entered into with the Contractor) will constitute an item of 'new service'. Rev. may be requested to follow the procedure prescribed in Fin. no. no. 4|9|0135-2 & 30-6-1949.

3/12/49 D.S.

Fin U.O No 81975/EB/49
5-12-49

my
5/12/49
Legal

ASSISTANT SECRETARY
6172
5 DEC 1949
10 PM
LEGAL DEPARTMENT

LEGAL DEPARTMENT.

Seen in Legal. The Government of India may be apprised of the Advocate-General's opinion as suggested by Public at M on p. 29 ante, and they may be informed that it will be best to take action in accordance with that opinion. A very urgent reply may be asked for.

6/12/49 6/12/49

Revenue dept

Legal U.O. No 6172/49
6-12-49

I. P. M.
R 7251 7 DEC 1949

The file relates to (i) the payment of Compensation to the Sandur distiller for a period of about six months when the distillery was kept closed as a security measure and (ii) the extension of Prohibition to Sandur.

2. There are no toddy or Ayurvedic Shops in Sandur. The arrack Shops are run departmentally & the arrack required is obtained from the Sandur distillery. The contract between the distiller and the former Darbar under which the State agreed to purchase 500 gallons of arrack at Rs 5 per gallon expires only on 18-10-1951. The arrack Shops in the State were kept closed as a security measure for about

32 (a)

p 34 & 35 N

six months during 1948-9. As the distillery [redacted] did not function during the above period, the distiller has claimed compensation for the period the distillery was kept closed. The distillery has since been reopened. The Govt of India are of the view that the distiller should be paid as compensation the full cost of 500 gallons at Rs 5 per gallon for every month the distillery was kept closed. p 59 N of 1949

The view of the Advocate General which is in accordance with the view of Legal deptt is that the distiller is entitled only to the gain which he would have obtained ie the difference between the selling price of Rs 5 and the cost price of Rs 4-4-0 per gallon ie Rs 375 p.m. p 47-48 N of 1949 & p 17 ante

Legal deptt has suggested that the Govt of India may be apprised of the Advocate General's opinion and informed that it would be best to take action in accordance with that opinion. A draft letter to the Govt of India is submitted. p 31 ante

Mayle approved 9/12/49

2. As regards the extension of Prohibition to Sandur, the Board of Revenue has suggested that Prohibition may be extended from 1-6-50. Finance deptt has however suggested that the issue of orders extending Prohibition to Sandur may be deferred till India's remarks are received and considered. For orders whether the question of extending Prohibition to Sandur may be deferred as suggested by Finance. 2 at p 28 ante

A on p 30 ante

For orders 9/12/49

3. Hm (Ach) Hm (Fin) ~~Hm (E&L)~~ Hm (E&L) & HPr may see.

DC 9/12/49

9.12.49 DS

DS Hm (Pro) Hm (Ach) Hm (Fin) Hm (E&L) HPr

MR 9/12/49.

Hm (Pro) Hm (Fin) Hm (E&L) H. Pr.

Invoiced

(Issued attd. vide 32(e) Rev Dept orders on p. 32 c.)

rNo: D2008D
49

Prohibition - Sandur - Meyer - Taking over of admn - extension of laws -

p1-5 CF — From the Bd of Rev (Exc) CR No 23032-06K/(49)K dt 11.10.49

To AS
51-55 Please see the Board's ~~Reference~~ letter at ~~pp 1-5 CF~~ with regn. to the memo. (extract) at p. 6 CF - p 56 CA

2/ The question of introduction of Prohibition in the Sandur area is under the consideration of the Govt. The distillery contractor with whom the former Govt. entered into an agreement will have to be compensated, ~~and this agreement expires on 18.10.1951~~ if Prohibition is extended before ~~18.10.1951 when the agreement expires~~. The bill on the subject has been circulated to HM (Revenue) with a memo. to the Govt. Solicitor calling for the opinion of the Advocate general on the question of compensation. Hence unless the full financial implications are known and orders taken in circulation after the receipt of the Advocate General's opinion, Prohibition cannot be introduced into Sandur, though the Bd. has recommended that it may be done from 1.6.50

3/ The Board has also recommended that the two Central Acts viz. The Opium Act 1878 and the Dangerous Drugs Act, 1930, may be extended to Sandur from 1.10.49. At present the Sandur Opium Act VI of 1937 is in force in Sandur as a parallel to the Opium Act 1878. But there is no parallel Act to the Dangerous Drugs Act 1930. The Board's recommendation to extend the Opium Act, 1878 & the Dangerous Drugs Act, 1930 to Sandur ~~has~~ ~~where~~ may be accepted. It is stated that in a recent note from Hyd (Pol.) it has been mentioned that the Govt. of India are contemplating to issue an Ordinance in respect

(1772 D 1/6 (26 pmt up)) — file seen rets by HM with a query 5-11-49

para 2 p 1 CF — Orders on this case issued in the seen file 11/49

para 2 p 1 CF — X

2 at p 2 CF —

Hyd (Pol.) No. Sandur 4675/Cpl-17 dt 18.10.49 (27 pmt up) — Sandur may be accepted the Acts need not however be actioned retrospectively from 1.6.49

X 32(9)

of the merged areas, extending all unprivileged laws of the Govt. of India. ~~Before taking any action,~~ Pub Deptt may be requested to state whether ~~it is necessary for this Govt. also to extend these two Acts and also when the Govt. of India are going to issue the Ordinance referred to above the two Acts mentioned above are included in the Ordinance proposed to be issued by the Govt. of India.~~

B
5/11/49

R

31/10/49

BC
31.10.49

Ds
5/11/49

Ds
7/11/49

Pub (Poll.)

Public (Political) Department.

Notes on p.p 1-2 above may be perused. With reference to R above, it is submitted that the two Acts in question viz the Opium Act, 1878 and the Dangerous Drugs Act, 1930 have been included in the schedule appended to the draft central Ordinance. The Govt. of India have since informed that they propose to introduce a Bill in the Dominion Legislature when it meets on 28/11/49 instead of promulgating the Ordinance. This Govt. too have to draft a Bill on similar lines and therefore the Govt. of India have been addressed for a copy of the draft Bill, on receipt of which it will be possible to say whether the Acts in question have been included in their ~~list~~ Schedule or not.

2/. With the above information, the file may be returned to Revenue.

11/11/49

13/11/49

Revenue

Rev no xx

R — p 1 (2) — 8 D/49-1

ASSISTANT SECRETARY 5832-D 7.11.49
2 NOV 1949
CHIEF SECRETARY

5 on p 9

(1) (Approved)

Rev (++)

Pub (Poll) u.o. no
5832/49-1 d 14/11/49.

ADDITIONAL ASST. SECRETARY TO GOVT. OF BENGAL
R 67399 D
1 NOV
2 10
1949
REVENUE DEPARTMENT

32(d)

Rev Dyptt.

To AJ

Please see the note of Public (Pol.) at p2 ante: With reference to X footpage it is ordd. that the file may be over till 25.11.49 when Pub (Pol.) may again be asked in the matter.

A
15/11/49

16/11/49

15/11/49

To AS

Please see note above. The file may now be sent to Pub. (Pol.) ~~with reference to it at footnote~~ and they may be requested to state whether the draft Bill referred to at X on p ante ~~has since been received~~ from the Govt of India do so whether the Dangerous Drugs Act and the Opium Act have been included in the Schedule of the Bill

A
30.11.49

Pub (Pol.)

30/11/49

1/12/49 out (AS)

Rev Dy. No. 620082
AS-2
D 1.12.49

7546
DT. DEC 1949

Public (Political) department

copy not put up

A copy of the draft central Bill has been received in the department. It has been verified that the two central Acts viz the Opium Act and the Dangerous Drugs Act have already been included in the schedule appended to that Bill

verified in section

37 (Re)
with the above information, the file may be returned to Revenue.

3/12/29 Agl 3.12.29

5.12.29 Rev

Pub(Pol) u.o. no 1207526/29-1 dt 3/12/29.

Rev Deptt.

To AS

Please see the notes of Pub(Pol) from p3 ante. In the circumstances stated therein no action is called for in this Deptt (so far as the Opium Act & Dangerous Drugs Act are concerned) ~~Also~~ understood that the Legal Deptt is taking action for introducing a Bill in the Provincial Legislature on the lines of the Govt of India Bill referred to at A preceding. This file may be added to the main file relating to the introduction of Prohibition in Sandur on return from Deptts as the extension of Orders in Sandur is the only point remaining to be dealt with in this file.

ADDITIONAL ASST. SECRETARY TO GOVERNMENT A 72500 REVENUE DEPARTMENT

(Pub(Pol) u.o. no 1207526/29-1 dt 3/12/29)

Pub(Pol) 4/12/29

6/12/29

6/12/29

1) As regards compensation to the distiller
draft letter to Govt of India may be

2) About extension of prohibition to Sa
we must agree with the proposal of
Bd of Rev to extend it from 1.4.5
A small wet area in the centre
dry district would create many
difficulties in enforcing prohibition
the surrounding area. Therefore le
extend prohibition to Sandur from 1.4

18/12

R.T. 19.12

21-12-49

SECRETARY TO GOVERNMENT
21 DEC 1949
REVENUE DEPARTMENT

p59f
p60f

Letter from the Collr of Bellary Re No. 12592/48 S1 dt 9.12.49
" " Revs. 11476/48 S1 "

T. DS

Please see the orders in circulation
above and the letters at pp 59-60f. The draft letter to the Govt. of India
p61CF may issue. Action on item (2) above and
on the letters at pp 59-60f will be taken
after issue of the draft letter. ~~Acknowledge the~~
21/12/49 ~~letter at p59f; no action is necessary on the~~
~~period mentioned in that letter may be taken~~
~~into account when fixing the amount of Compensa~~
~~to be paid to the distiller after receipt of Govt. of~~
~~India's reply. No action is necessary on that letter~~
~~now.~~

KRS
26/12/49 DS

28/12/49.

84

Issued as letter No. 18726 D/48 dt 28-12-48. ~~Ptc~~ Ptc 14
~~dt~~ Ptc of telegram from the Govt. of Andhra No 17. Econ. ~~dt~~ p 62 ante
dt 7-1-50

To AS

Please see the orders in Circulation on p 33 ante & the reply of the Govt. of Andhra at p 62 ante.

2. In view of the p.c. of Telegram at p 62 ante the Govt. may sanction the payment of a Compensation of As 375 p.m. to the Sandur Distillery in the period from 1-8-48 to 31-12-48 when no arrack was purchased from the Distillery. As it has been ordered on p 33 ante that Order should be extended to Sandur from 1-4-50 a Compensation of As 375 p.m. may also be granted to the distiller from 1-4-50 to 18-10-51 when the contract with the distiller expires.

375 / 1875 A × p 59 ante

A on p 45 ante B

The amount of Compensation referred to at A above comes to As 1875 & the amount referred to at B above comes to As 6967-12-0. It is presumed that no notice need be issued to the distiller about the termination of the agreement at pp 16-19 ante with effect from 1-4-50 & that it is sufficient if the distiller is merely informed at any time before 1-4-50 that Prohibition will be introduced in Sandur with effect from 1-4-50, that no arrack will thereafter be purchased from him on and from that date ~~in pursuance of the memorandum of agreement at pp 16-19 ante~~ and that a Compensation of As 6967-12-0 will be paid to the distiller for the period from 1-4-50 to 18-10-51. ~~Legal & Lai may see~~ With reference to this note at Mem pp 30-31 ante it is submitted that both HM (Lai) & Hyr had approved the

× 375 × 5

375 × 18 + 375 × 15 / 31

In the absence of a provision for notice in the contract, no notice appears necessary. Ag 16/1/50

p 33 ante

F.B

35

proposal to extend Prohibition to Sandur with effect from 1-4-50 They have also agreed to the payment of compensation at the rate suggested in the letter at p61 c/f. Finance may therefore be requested to state whether orders may be issued extending Prohibition to Sandur & sanctioning compensation as suggested in para 2 at p34 ante without further circulation If so a summarising note will be circulated to the ministers who have not seen the case & a supplementary grant will be obtained from the Legislature.

4. Finance may see. Legal may also see with reference to C on p 36 ante.

16.1.50

DS

Legal

Fin.

19/1/50.

Legal

Finance.

LEGAL DEPARTMENT.

The agreement at pp. 16-19 c.f. does not provide for its being terminated during the period of five years referred to in clause 5, and no notice for the purpose has been provided for. It is proposed to pay to the supplier compensation as provided for in the agreement. He may however be informed, as early as possible, on the lines suggested by Revenue at C on the previous page.

16.2.50

16/2/50.

S.

Finance Dept.

Finance (Exp.B).

(Finance last saw on pages 29-31 above).

It has been ordered in circulation (1) that the Government of India may be addressed as regards the compensation to be paid to the distiller and (2) that prohibition should be extended to Sandur State with effect from 1-4-50. p. 33 above.

The Government of India have since intimated their acceptance of this Government's proposal to pay to the distiller a compensation at Rs. 375/- for 500 gallons per mensem for the period during which the distillery was closed, vide copy of their telegram at page 62 C.F. In view of this and also of the orders in circulation that Prohibition should be extended to Sandur with effect from 1-4-50, Revenue propose to sanction the payment of compensation at Rs. 375/- per mensem for the period from 1-8-48 to 31-12-48 during which the distillery was closed for security purposes and also for the period from 1-4-50 to 18-10-51 from the date of introduction of prohibition to the date on which the present agreement with the Contractor expires. p. 62-C.F. | A on p.34 ante | B on p.34 ante

The total amount involved will work out to Rs. 8,843/- roundly. The above proposals have already been agreed to ~~in principle by~~ in this Department. × (375×5 + 375×18 3/31) = 1875-0 + 6967-12 = 8842-12 = 8843 vide Nn 29-30 above

With reference to 'A' on p.35 above, Fin. may agree with Rev. that orders may be issued as indicated therein without further circulation A 24/2/50

With reference to 'K' on p. 35 above, Rev. may be requested to send to this dept. immediately for acceptance draft note on the Supplementary Estimate of expenditure. (Clean copy of the note will have to reach Fin. before 1-3-1950). B 24/2/50 (The file may be treated as 'Special' to expedite further action.)

A 24/2/50 D.S.T

24/2/50

Rev

24/2/50

ASSISTANT SECRETARY TO THE GOVERNMENT REVENUE DEPARTMENT 24 FEB 1950 Rev/EB/50

24/2/50

Rev.Deptt.

To A.S.

Please see the notes from 'Z' on p.31 ante. Orders on the following points have to issue in this file.

(1) Extension of Prohibition to Sandur from 1-4-1950 and payment of compensation to the distillery contractor from that date to 18-10-1951, the date on which the present agreement with the contractor expires.

(2) Payment of compensation to the contractor for the period from 1-8-1948 to 31-12-1948 when no arrack was purchased from him as a security measure.

2. The following points arise in this connection:

The Board should be asked to apply for the necessary minimum staff for enforcing Prohibition in Sandur from 1-4-1950. ~~As regards~~ The expenditure towards compensation due to the contractor on account of the extension of Prohibition from 1-4-1950 and expenditure on the staff to enforce it, ~~they~~ should be debited to '8. Provincial Excise.' VIDE G.O.No. 948 Fin. dated 8th Oct. 1948, as the expenditure ~~could~~ will be incurred only after 1-4-1950.

3. Befpre the merger of Sandur State with this State, the Sandur Durbar had entered into an agreement with one Sri Moola Lakshminarayanaswami for the establishment of a distillery at Sandur for the manufacture of arrack. The State ~~had~~ has to purchase 500 gallons of arrack every month according to clause 6 of the agreement with the contractor. The agreement is to remain in force for a period of 5 years from 19-10-1946. The administration of Sandur State was taken over by an officer of this Govt. on 29-7-49 A.N. As a security measure the Government arrack depot in Sandur was sealed and no arrack was issued to the shops for public consumption from 1-8-1948 to 31-12-1948. The distillery contractor has claimed compensation for the period no arrack was purchased from him as per the agreement. The Advocate-General who was consulted on the compensation to be paid to the distiller is of the opinion that the

(P.T.O.)

distillery contractor is entitled to ~~#~~ a compensation equivalent to his loss of profits viz. 12 as. per gallon which works out ~~t~~ amount of Rs.375/- per month for the period ~~thexdistillerykxwasxclosedxorxhereafterxhexdirectedxtoxhexclosed~~ when ~~no arrack was purchased in 1948 when~~ the distillery was closed or may hereafter be directed to be closed - ~~and for the period from 1-4-1950 to 18-10-1951 when the agreement with the contractor expires on account of the introduction of Prohibition in Sandur, which necessitates the closure of the distillery from 1-4-1950.~~ The ~~total~~ amount of compensation for the period from 1-8-1948 to 31-12-1948 comes to Rs.1,875 and that for the period from 1-4-1959 to 18-10-1951 comes to Rs.6,968 roundly. Hence a total sum of Rs.8,843 will have to be paid to the distillery contractor.

A 94 6/F

U/L A ± 15 ~~Tp~~ 35-36 ante

~~&~~ A draft order, a draft note on the Supplementary Estimate and a draft summarising note are submitted for approval. May be sent to Fin for acceptance In this connection it is subd. that expenditure towards staff and compensation is not likely to be incurred during the current year. ~~Itxixxproposedxto~~ The instructions proposed to be issued to the Board is to pay the compensation to the distiller as quickly as possible after 1-4-1950. In the circumstances, Finance may be requested to state whether a Supplementary Estimate ~~wx~~ is necessary. If so, the draft note below is for acceptance by Finance. That Deptt. may be requested to return the file before 1-3-1950 as the clean copies of the Supplementary Estimate have to ~~bexsentxtoxFinance~~ note for reach Fin. by 1-3-1950. (After issue of the/Supplementary Estimate and the Summarising note, the file may be sent to Legal for scrutiny draft of the/notification.)

A

I ~~t~~ can in which a statement regarding the expenditure the current year 1950-51 is 28/2/50

27.2.50

28/2/50 Ds

28/2/50

Fin.

Finance.

Immediate

Rev no. No. 187260/48-2 28.2.50

P.S. Legal Shirlo see draft notification if they have not already done so. The file can go to Legal on return from Fin

28/2/50. Fin

Fin (Sec I-B)

(Previous Fin. note and p 36 above) ~~...~~ the draft order and the draft Summarising note below may be accepted

Shno. BSE II
B.G. 28/2/50
Para 4 on p 38 above

In view of A. on p 38 above, no supplementary estimate is necessary, in the current year (further, the transactions relating to the proposed cases have likewise been and remain outside the Budget etc.)

28/2/50

AFI
28/2/50 Revenue

12966D2

FinUOND 13960/CB/50 1/2
28-2-50

Please see Fin. notes above. In the circumstances stated the draft note on 'Supplementary Estimate' (draft III) need not issue. After issue of the summarising note below (draft II), the file may be sent to Legal for scrutiny of the draft notification (para 2 of draft I).

1/3/50

1.3.50

The Summarising note when may issue along with the order.

The draft order may now be sent to Legal for scrutiny of the notification.

2.3.50 Legal

LEGAL DEPARTMENT.

The alterations indicated in red ink on the draft notification may be made.

2/3/50

Rev

I - Draft II
II - Draft III
III - Draft I

Legal
Immediate

Rev no IV
18726 D/48-25

2.3.50
(with 2 Fls)

Legal 2.6.
3285/50-1
2.3.50

ASSISTANT SECRETARY 3285 2 MAR 1950 LEGAL DEPARTMENT

REVENUE 13445

40

To AS

Rev draft.

~~Please see the note of legal. The draft~~ notification on page 2 of ~~drafts~~ below, as amended by legal ~~is may be~~ in order. ~~The draft order and the draft summarising note may now issue~~

Notes from 34 ante. The draft order and the draft summary may issue.

DS

HM (Rolm)

2/3/50

2-3-50.

3/3/50 D.S.

3/3/50

3/3/50

~~Hall (Rolm)~~

Public (Poll) deptt.

C.No. 1698/48 CF

States- Sandur- Excise and arrack control

/From the Collector of Bellary No.49/48 C.C. dated 21-8-48

Please see the letter from the Collector of Bellary in the C.F.In view of the security situation in Sandur the Collector of Bellary has ordered the closure of distillery in Sandur for some days.. Now he requested to be informed whether in the circumstances explained in para 2 of his letter on page 1 C.F. the distillery may ~~be~~ remain closed until the question of merger is settled or whether normal business may be resumed. ~~reviewed~~. Revenue may see for remarks as ~~the~~ regards the claims of the distiller for payment of compensation if the closure of the distillery is to be decided upon.

25-8-48

The previous papers are in Pub(SC) That section may deal with this

AR 25-8-48 Pub(SC).

Pub Political Dept. a.o. 3524/681 25/8/48

Pub:(S.C.)

The main file is in circ. to H.P.V. ~~Orders may are requested on the note above~~. The present position is that the Collr. of Bellary runs the administration on behalf of the Ruler till the question of merger is settled. The Govt. of India have recently intimated that the question of merger will be settled about the end of this month (not on 21.8.48 as originally intimated). In view of the short period that still remains, it is for orders whether the distillery may continue to remain closed; or whether in view of the loss involved to the State, the distillery may be allowed to be reopened if such a step will not, in the Collr's opinion, jeopardise the security situation.

A

If the Security Situation demands it, the distillery may continue to be closed.

If we hear definitely from the G. of India by 26/8/48 we are unable to act in any way. O.P.R 1/9

HPV

CHIEF SECRETARY 3 SEP 1948

AW may be informed as at A above NG 26-8-48

PLV

Please see the orders in circulation on p. 1 ante. It is presumed that the intention is that the distillery should remain closed until the question of merger is settled. ~~If~~ If so, the draft memo: below is drawn. For approval.

JCT
3/9/48

NGK
4.9.48

GS
4/9/48

Refer the matter to Govt. of India

GS

KLG

Draft letter drawn. For approval.

JCT
5/9/48.

NGK
7.9.48

GS
7/9/48

Issued letter to India, No: S/4352-1/48 Dt 7/9/48. pp. 3-4 c.

From the D.C. Bellary, letter No: R.C. 49/48 C.C. dt. 5-10 c
Dt 3/9/48.

Please see the letter on pp. 5-6 c. from the D.C. of Bellary & its enclosures on pp. 7-10 c. The Govt. of India have been addressed in the matter & their reply is awaited - please see pp. 3-4 c. Moreover, India have today sent a copy of the merger agreement which has been communicated to the Raja, & its ratification may be expected in the next few days or so. Further developments may, therefore, be awaited.

JCT
18/9/48

NGK
20.9.48

GS
14/9/48

[From the D.M. of Bellary, D.O. S/22/9/48].

Please see the D.O. on p. 11 c/ from the D.M. of Bellary. The Govt. of India may be addressed in continuation of the letter on pp. ~~2-3 c/~~ 3-4 c/. Two drafts are submd. for approval

1 c/
26/9/48.

1.10.48

1/10/48

4

pp. 13-14 c/ [Issued letter to G. of I., Ministry of States, No. S/4382-3/48 S/ 4/10/48]

p. 15 c/ [Issued D.O. to D.M. of Bellary, No. S/4382-2/48 S/ 4/10/48].

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p. 17 c/ [From the Govt. of India, Ministry of States, New Delhi, letter No. D.6163-18/48 S/ 4/10/48].

Please see India's letter on p. 17 c/. A copy of the contract agreement on pp. 9-10 c/ has already been forwarded with the letter on pp. 13-14 c/ which has crossed the letter on p. 17 c/. No action is necy.

8/10/48

9/10/48

13.10.48

p. 19 c/ [From the Govt. of India, Ministry of States, New Delhi, letter No. S.6768-18/48 S/ 23/X/48].

Please see India's letter on p. 19 c/. The Govt. of India consider that since the Bellary lines closed by the D.M., Bellary, as a security measure, no question of compensation can arise. They however, suggest that legal opinion may be taken on the subject if any claims put forward by the contractor.

contractor, dealt with in accordance with that opinion. Legal may, therefore, do for remarks. A copy of the contract agreement is on pp. 9-10 c.

2. As regards the question of the indefinite closure of the distillery, the Govt. of India consider that security reasons cannot constitute a valid plea in justification of such closure. They are, therefore, of the opinion that the distillery may be allowed to resume business. In view of this opinion and also of what is stated in the last sentence of Madras letter, the D.M., Bellary, may be told that the distillery may be allowed to resume its business. Draft D.O. ruled for approval. After issue, the file may be sent to Legal w.r.t. para 1 above.

JS
27/X/48

But who are the Cultivators & how do they dispose of their Stuff?

JK
27/10/48

Please see C.S's query above. A draft D.O to the D.M. is ruled for approval.

JS
27/X/48.

JK
28/10/48

[Issued D.O. to D.M., Bellary, No. S/4352-4/48 S) 28/X/48 pp. 21 c/

[From the D.M. of Bellary, letter No. A.C.49/48 C.C. S) pp. 23-25 c/
30/X/48]

Please see the letter on pp. 23-25 c/ from the D.M. of Bellary. The Govt. of Madras views in the matter are on p. 19 c/. In this connection the note from 'X' on p. 3 ante may also be

be procured. A reply from the D.M. of Bellary, to the D.O. on p. 21 c/f. is awaited. In the meantime, Legal Dept. may see for remarks w.r.t. para 1 of the note on pp. 3-4 ante. In offering their remarks, that Dept. may also take into consideration the D.M's letter on pp. 23-25 c/f.

J.S
6/11/48.

8/11/48

8.11.48

Legal

Pub(S.C.) W.No. S/4362-5/48
8/11/48

SECRETARY TO GOVERNMENT
10
9- NOV 1948
LEGAL DEPARTMENT

Legal Department

The agreement entered into between the Government of the Sandur State and the supplier is at pages 9-10 c.f. There is no provision in it enabling it to be terminated before the end of 5 years commencing from 19-10-46. Clause 6 of the agreement specifically provides that if for any reason the State does not purchase the full quantity of 500 gallons of arrack in any month during the period of contract, compensation shall be payable. The claim under the heading (a) at page 25 c.f. viz. the value of the arrack which the State was bound to purchase, must in ~~XXXX~~ any view of the matter be appreciably cut down. Where a contract is broken, the person complaining of the breach is entitled only to loss or damage caused to him by such breach. For this purpose, he may claim to be put in the position he would have occupied had the breach not occurred. In the present case, if the contract had not been broken, the State would have paid the distiller Rs.5 per gallon of arrack, but then the distiller was bound to manufacture the arrack and the cost of its

page 9 c/f.

production would have been borne entirely by him. Assuming therefore that he is entitled to damages, he will be entitled in respect of each gallon only to the difference between the price stipulated, viz. Rs.5 and the cost of producing a gallon. If the statement under the heading (b) on page 25 c.f. is correct, no claim for compensation under that head can be entertained. Nor is the claim under the heading (c) tenable for the reasons stated there.

On the question whether Government are liable, it may be mentioned that "security measures" by themselves would not justify a breach of the contract unless they are of such a character that they can be properly described to be Acts of State. The file does not contain any information to show whether the security measures taken in Sandur may be properly said to belong to that character.

3 It is presumed that 'prohibition' has been introduced in Sandur also. If it has not been, the purchases may be made from the distiller for use in Sandur. On the other hand, if it has been introduced in Sandur, there seems to be no way out except to settle the claim of the distiller on some reasonable basis.

Public (S.C.).

The Note of Legal Secy. on pp. 5-6 above may be perused. Briefly, Legal Secy. considers that -

(1) w.r.t. (a) on p. 25 c.f., the distiller is entitled to compensation in respect of each gallon only to the difference between the price stipulated, viz. Rs. 5/- and the cost of production per gallon;

(2) no claim for compensation under (b) on p. 25 c.f. can be entertained if the statement made thereunder is

is correct; and

(3) 'the claim under (c) on p. 25 c.f. is untenable for th reasons stated therein.

The D.M. of Bellary may be informed of the legal position as set out by Legal Secy. He may also be asked, w.r. para 2 of Legal Secy's note, whether the security measures taken by him in Sandur are of such a character that they can be properly described to be Acts of State.

W.r.t. para 3 of Legal Secy's note, it is subd. that Sandur has not yet merged with this Province. Prohibition cannot therefore, be introduced in that State as long as the merger agreement is not signed. Moreover, in his letter on p. 1 c.f., the D.M. asked for orders whether the distillery could be allowed to resume its business. It may be pointed out in this connection that the Govt. of India have no objection to the re-opening of the distillery. The D.M. has, however, not been permitted to re-open it as yet, pending a reply from him to the D.O. on p. 21 c.f. It is subd. for consideration whether, in view of Legal Secy's remarks, he may now be permitted to re-open the distillery.

J.V. 13/11/48.

15/11/48

Please see p. 1-5 c/f & particularly X on p. 3-4 c/f & also the opinion at p. 18 c/f.

The State is not being administered as part of Madras Province but on Govt. on behalf of the Ruler. Even so, the position is not clear whether the Collector's Govt can introduce prohibition in the State or not. But the Collector's action in having closed the distillery as a security measure at the time of taking over the

Put up the notice referred to at X on p. 1 c/f

16/11/48

V.V. — please see p. 1-5.
J.V. — p. 3-4 ... "X" on ... p. 3-4 ...

16/11/48

Administration can be deemed
to be an Act of State
The best course would be to tell
the Collector to allow the
distillery to function now, & to close
it as soon as the State is merged
& the Prohibition Act extended
Party may be told that no
Compensation is payable for
the closure during these days

Legal may see again

17.11.48

Legal

Pub.(Sc) n/. no S/4382-6/48
17.11.48.

Legal Department,

Without fuller particulars, it will be difficult to maintain that the circumstances set out at pages 1-5 c.f. and X at pages 3-4 c.f. in the linked file amount to an Act of State.

This Government have no power to extend the Prohibition Act to Sandur as that State has not "merged" into India.

That being so, if it is decided not to buy the particulars liquor produced, it is best to come to some settlement with the distiller.

17/11/48

Leg(Sc)

Legal No. Leg.(Sc).
19.11.48
S/5854/48
19/XI/48

Public (S.C.)

Legal Secretary's note on p. 8 ante may be perused. In this connection it is submd. for orders whether the suggestion in this Dept's note on pp. 6-7 ante will be approved. Subject orders, a draft D.O. to the D.M. of Bellary is submd. for approval. ~~Ror may see before issue~~

SECRETARY TO GOVT. LEGAL DEPARTMENT 26 NOV 1948 112

20/xi/48.
22/11/48

Legal may please first say what exactly an Act of State is.

25.11.48

Legal

Legal Department

An extract explaining the expression "Act of State" from Mr. Ramaswamy Iyer's book on the Law of Torts is placed at flag (B).

27/11

Legal No. 112 (S.C.)-1
27.11.48.

Draft may be appd.

27.11.48

for Hr

29/11/48

CHIEF SECRETARY GOVERNMENT OF MADRAS 30 NOV 1948

[Issued D.O. to D.M., Bellary, No: S/4352-4/48 Dy 30/12/48. 1.1.27-12-48

From the D.M. of Bellary, D.O. No: R.C. 49/48-A2. cc. Dt 1/12/48].

Subd. for perusal. The information furnished by the D.M. was called for w.r.t. C.S's query on p. 4 ante. The D.M. has now been told to re-open the distillery, until the Sandur State is merged with this Province, when it should be closed - please see para 3 on pp 28-29 c/. No action is, therefore, req. on the D.M's ref. at p. 31 c/.

J.T. 3/12/48.

4/12/48

4.12.48

4/12

[From the D.M. Bellary, D.O. R.C. No: 1259/48 C.C. Dy 9/3/1949.

IX

Please see the D.O. on pp. 33-34 c/ from the D.M. of Bellary & its enclosures on pp. 35-43 c/, in reply to the D.O. on pp 27-29 c/ which was based on the advice of Legal Dept. on pp. 5-6 ante. Special attention is invited to "A" on pp 5 & 6 ante of that Dept note. The D.M. now contends that in spite of the legal advice contained in the D.O. on pp. 27-29 c/, if a spl. penalty clause for non-fulfilment of the contract has been incorporated in the Agreement, equity at least demands that it should be observed. He accordingly recommends that compensation, at the rate of Rs 4/4/- per gallon for 500 gallons for each of the 5 months during which the distillery was not working, shd. be paid, at which this works out to Rs: 10,625/-. Subd. for orders.

J.T. 14/3/49.

(This file may now, perhaps, be transferred to Pub: (Pole.) who are dealing with the general question of the Merger of Sandur State).

15/3/49

The Collis proposals are now based more on grounds of equity than on legality. The Govt of India in their letter at p 19 of authorised us to settle the claims only in accordance with the legal opinion. If we are to grant the claim on grounds of equity we must have their concurrence. G. of India may therefore be addressed. Before doing so it is for consideration whether the Bd of Rev (Excise) may be consulted and asked to offer their remarks on the Collis recommendations.

Pub (Pol) may take this over as it no longer continues to be S.C.

CSR
16/3

Yes

S.S.

Pub: (S.C.) G.O. No:
S/4382-8/48
16/3/49.
C No. 169 P/49

G. of I may be addressed

Ky
16/3

A draft letter to the Govt. of India is submitted for approval. Revenue may be consulted.

Cal
19.3.49

There is another file on the subject in Revenue.

19.3.49

I am
21.3.49

Rev

Rev. Deptt.

Pub C.M. No. 1698/48-1
22.3.49

SECRETARIAT
177432
GOVERNMENT
2

To A.S.

Note from X on p. 10 ante alone need be read. With reference to Rule first temp note at A above, it is presumed that the file referred to is linked below; in which the question of introducing Prohibition

In that file

(P.T.O.)

E & S

~~The~~ Sandur State is being kept in abeyance pending the ~~~~ merger of the State with the Indian Union ~~, the draft letter to the Govt. of India below may be perused~~ and The file may be returned to Pub (Poll.) who may be requested to return this Dept's file linked below after perusal.

from last para of p. 10 ante

4.4.49 Dep (Ord)

E & S ?

Pub (Poll.)

Please retype draft as amended

8.4.49

Pub (Poll) Dept

The Rev. dept's file referred to at A on p 11 above is linked.

The draft letter to the Govt. of India has been retyped as amended. Finance Legal may see before circulation.

4.49 Legal / Fin

Rev No. 17743 D/48-1 4.4.49

ASSISTANT SECRETARIAT 8 APR 1949 CHIEF SECRETARIAT 2236

Pub (Poll) No 1698/49-2 9.4.49

Dep (Ord)

4577 e

Legal Department

As already pointed out by this Department at pages 5-6 ante, the distiller cannot well claim to be put in a better position than he would have occupied, had there been no breach of the agreement. The contractor is not entitled, as a matter of equity, to compensation at a rate higher than 12 annas per gallon. I am not much impressed by the Collecter's view in regard to this matter. If, however, the Government of India are to be addressed as proposed, the alterations indicated in red ink on the draft may be made.

H.M. (Law) may see.

K.R. 11/5/49

ASSISTANT SECRETARY 12 APR 1949 LEGAL DEPARTMENT

SENIOR ASSISTANT SECRETARY FINANCE DEPARTMENT 12 MAY 1949 3/2882 GOVERNMENT OF MADRAS

Legal (Ord) 4577/49-1 11/5/49

will be seen in the letter despatched

Finance Dept

Pol cons 1699/49

Pol (Esp. B) Dept

5/165

Note on pp 1+2 above and the draft letter below may be passed - The proposal relates to the payment of compensation consequent on the closure of the Distillery at Sandur for a period of 5 months from August to December 1948 -

13.5.49 13549 13.5.49 Pol 13/5/49

Pol cons 1699/49

Public (Political) Department

The distillery at Sandur was closed as a security measure for a period of five months and the contractor has claimed Rs.12,500 by way of compensation. The Government of India have intimated that since the distillery was closed as a security measure no question of compensation can arise. They have however suggested that this Government might take legal opinion on the subject and deal with any claims that may be raised by the contractor in accordance with such opinion. The legal opinion is that the contractor is not entitled as a matter of equity to compensation at a rate higher than twelve annas per gallon. The Collector of Bellary is of the opinion that the distiller should be given compensation according to the terms of the penalty clause in the agreement and that Government should not take refuge behind any legal technicalities. It is proposed to address the Government of India in the matter. The draft letter explains the case more fully and may be approved.

H.M. (Law) AR 14.5.49 HPn. 14/5

CC 16/5

1 | 45-67½ (issued as letter no 1698/49-4. d 3/6/49.)

With reference to the minutes of H.K (Pers) on p. 49 c/f. the file may be circulated to H.K for perusal. The matter has been referred to the Govt. of India for their views regarding the payment of Compensation to the distillers - Please see this Government's letter on p.p. 45-47 c/f. Revenue may perhaps see before circulation.

6/6/49 Cell 6.6.49

7/6/48

Revenue Dept

21/13/6

as H.M. is away

Pol (Pers) I.O
1698/49-b
7.6.49

T.A.S.

The note from X on p 13 ante of the letter to the Govt. of India at pp 45-47 c/f may be perused & the file returned to Pub (Pol).

7.6.49

8.6.49

Pub (Pol)

MKR 8/6/49

ASSISTANT SECRETARY TO GOVERNMENT
7 JUN 1949
REVENUE DEPARTMENT

D2

P 35777 D

7/6/49

Public (Political) Deptt.

The file may now be circulated to H.K. (Pers) with reference to his minutes on p. 49 c/f.

10/6/49 Cell 11.6.49

11/6/49

13/6 C.S.

Let us await the reply from the Govt of India

HM (Pol)

Rec. No. 35777 D
49-1
8-6-49

3583
10

Offr
18/6

CHIEF SECRETARY
21 JUN 1949

ASSISTANT SECRETARY TO GOVERNMENT
21 JUN 1949
CHIEF SECRET

p 5 c.

(From the Govt.of India.,No.F.49-Econ./49 d/9-7-49,)

Please see the Govt.of India's reply to this Govt.'s letter on pp.45-47 c.f. The Govt.of India are of opinion that the payment of compensation to the distiller must be in accordance with the terms of the written contract. They have also stated that, in view of the elucidation of the term 'cost' which appears in clause 6 of the agreement entered into by the distiller with the State, damages must be paid at Rs.5/- per gallon for 2,500 gallons i.e. Rs.12,500 as claimed by the distiller.

~~Legal, Finance and Revenue may see before circulation.~~ This makes Concerns the Revenue Deptt. to whom this may be transferred for further action.

19/7/49

Cue
18.7.49.

20/7/49

G.S./Revenue

Rev. Deptt.

Pub.(M) no
1198/49-7

ASSISTANT SECRETARY TO GOVERNMENT
22 JUL 1949
REVENUE DEPARTMENT

4505-4-D

To A.S.

Please see the Pub. Deptt. note above transferring the file to this Deptt. for further action. The file relates to the closure of the distillery at Sandur for a period of five months and the demands of the contractor for compensation. The letter to the Govt. of India at pp45-47 c.f. and their reply at p59 c.f. explain the position. In view of the Govt. of India's reply (p59 c.f.), the claims of the contractor for a compensation of Rs12,500/- which is ~~have to be considered~~ in accordance with clause 6 of the agreement entered into by the distiller with the State, damages being paid at Rs 5/- per

(P66.

gallon for 2500 gallons) will have to be conceded in full. The Govt. of India have stated that the amount should be debited to/ the Sayden States portion of the Collective Segment — legal and Fin. may see before circulation

2-8-49 DS

31/7/49

31/7/49

Legal

Finance

Legal Department

Please see notes in the top file. The decision on this case may await the decision in the top file.

1/8/49 Agree 1/8/49

Rev/Fin

Rev Deptt.

To AS

Please see the note of Legal above. The file need not go to Fin. at this stage. The reply of the Advocate General in the I.F. may be awaited before taking further action in this file. The draft memo. to the Collector w.r.t. his letter at p60/C is for approval.

24/8/49 1.9.49

Issued as Memo. No. 45034D/49-2 D 2-9-49 to Collector, Bellary.

To AS

The question dealt with in this file is being considered in the top file ~~as it is proposed to issue orders~~ implicit. This file may therefore be clubbed with the top file when that file is finally closed.

25/11/49 1/12/49

30/11/49